



INSPECTION REPORT COVER SHEET

Inspection #: <u>061912GD907</u>	Name of Person Contacted: <u>EDWARD DORE</u>
Name of Business: <u>Edward Dore Landscape Assoc. Inc.</u>	Official Position: <u>PRESIDENT</u>
Street Address: <u>5911 Fisk Road</u>	Post Office Address: <u>N/A</u>
City/State/Zip Code: <u>LOCKPORT, NY 14094</u>	City/Village/Township: <u>LOCKPORT</u>
Telephone Number: <u>716-625-8005</u>	County: <u>NIAGARA</u>

Inspector's Initials	Name of Inspection Form	Form Number
<u>MD</u>	Notice of Inspection	<u>NOI</u>
<u>MD</u>	Pesticide Applicator/Business/Use Inspections	<u>USE</u>
	Worker Protection Standard Inspection	WPS
	Worker Protection Standard Inspection Of Family Establishment	FEI
	Liquid Termiticide Use Checklist	TER
<u>MD</u>	Ornamental and Turf Checklist	<u>T&O</u>
	Voluntary Statement	VOL
	Receipt for Samples	SAM
	Market Place/Restricted Dealers Records Inspection	MKT
	Market Place/Restricted Dealer Records Inspection Continuation Sheet	MPC
	Quarantine Order	QRN
	Quarantine Order Release	QOR
	Recertification/Certification Course Monitoring	RCM
	Experimental Use Permit Checklist	EUP
	Authorization for Medical Record Disclosure	MED

Inspector's Signature: [Signature] Number: GD9 Date: 5/17/12

Inspection Acknowledgment: I acknowledge receiving a copy of the above listed inspection documents initialed by the inspector.

Signature: [Signature] Date: 5/19/12

Print Name: ED DORE



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF SOLID AND HAZARDOUS MATERIALS • BUREAU OF PESTICIDES MANAGEMENT
www.dec.state.ny.us

☒ NOTICE OF INSPECTION ☒ USE/MISUSE INSPECTION

INSPECTION # 061912GD901	DATE 6/19/12	TIME 1:00 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	REGION 9
NAME OF INDIVIDUAL EDWARD DORE		TITLE PRESIDENT	
NAME OF FIRM (Note if corporation, partnership, dba, etc.) EDWARD DORE LANDSCAPE ASSOC., INC.			
ADDRESS This is the address of the: <input checked="" type="checkbox"/> INSPECTION SITE <input checked="" type="checkbox"/> FIRM <input checked="" type="checkbox"/> INDIVIDUAL 5911 FISK ROAD			
CITY / VILLAGE LOCKPORT		STATE NY	ZIP 14094
TOWNSHIP LOCKPORT	COUNTY NIAGARA	PHONE 716-525-8005	

REASON FOR INSPECTION

- ☐ For the purpose of inspecting and obtaining samples of any pesticides or devices packaged, labeled and released for shipment, samples of any containers or labeling for such pesticides or devices in places where pesticides or devices are produced, or held for distribution or sale.
- ☒ For the purpose of inspecting and obtaining samples of mandated records.
- ☒ For the purpose of inspecting the use of pesticides and sampling pesticides in use to determine if they are being used in compliance with appropriate laws and rules and regulations.
- ☒ For the purpose of inspecting sites where pesticides are being used to collect data on the use of pesticides and to determine whether pesticides are being used in compliance with appropriate laws and rules and regulations.
- ☐ Other

VIOLATION SUSPECTED

CONSENT USE/MISUSE

Voluntary Consent Necessary to Enter for Inspection and/or Sampling.

- ☐ The undersigned hereby voluntarily consents to an inspection of _____ of which I am the owner, Agent, or Person-in-Charge, for the purposes of gathering information and/or samples in connection with the administration and enforcement of Article 33 and Section 15-0313 of the Environmental Conservation law relating to pesticides. I understand that I have the right to refuse consent to this entry.

SIGNATURE	TITLE	DATE
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This inspection is being performed under authority granted by Article 33 and Section 15-0313 of Article 15 of the Environmental Conservation law relating to pesticides and the Federal Insecticide, Fungicide and Rodenticide Act as amended (7 U.S.C. 136 et seq.).

INSPECTOR INFORMATION

NAME Gregory R. Davis	TITLE PCS 1	ID NUMBER GD9	PHONE NUMBER 716-851-7226
SIGNATURE Gregory R. Davis	OFFICE LOCATION 270 MICHIGAN AV. BUFFALO	ACCOMPANIED BY N/A	



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PESTICIDE APPLICATOR/BUSINESS/USE INSPECTIONS

INSPECTION NUMBER 061912GD901		FIRM/FACILITY/PERSON INTERVIEWED Edward Dore Landscape Assoc. Inc.		EQUIPMENT TYPE/SIZE 3 gal sprayer	
TYPE OF INSPECTION: <input checked="" type="checkbox"/> Business/Agency <input checked="" type="checkbox"/> Applicator		SITE OF INSPECTION 5911 Fisk Road, Lockport			
<input checked="" type="checkbox"/> Non-agricultural use <input type="checkbox"/> Agricultural use		INSURANCE COMPANY/EXPIRATION DATE			
BUSINESS REG. NO./EXPIRATION DATE #09999 9/30/14					
APPLICATOR NAME/CERTIFICATION TYPE Edward P. Dore Comm		CERTIFICATION ID C9864829	CATEGORY/EXPIRATION 3A 5/21/13	SUPERVISED BY N/A	
DATE/TIME/WEATHER CONDITIONS DURING APPLICATION 6/9/12 Sunny		CROP Turf	SITE/SIZE 109 Greenway Dr. Eggertsville, NY 14226		TARGET PESTS Phantom Spot Treat D.
PESTICIDE NAME/EPA REG. NO. Control 62714-305		METHOD OF APPLICATION Hand Blk	CLASSIFICATION NY5 R4P	FORMULATION LIQUID	LABEL RATE 1/2 oz/m
					OBSERVED RATE 1/2 oz/m
LABEL/EQUIPMENT REQUIREMENTS		REFERENCE SECTION	Yes	No	NA
Label Rate Followed	325.2(b)	<input checked="" type="checkbox"/>			
Target Pests on Label	325.2(b)	<input checked="" type="checkbox"/>			
PPE/Cautionary Labeling Followed	325.2(b)	<input checked="" type="checkbox"/>			
Preharvest Interval/REI per Label	325.2(b)				<input checked="" type="checkbox"/>
Crop/Area Treated per Label	325.2(b)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Pesticide Containers Properly Labeled	33.1301(1)(b)	<input checked="" type="checkbox"/>			
Service Containers Properly Labeled	33.1301(1)(b)			<input checked="" type="checkbox"/>	
Containers Properly Rinsed and Disposed	325.4(a)	<input checked="" type="checkbox"/>			
Backflow Prevention/Air Gap Present	325.2(c)	<input checked="" type="checkbox"/>			
Proper Stickers on Equipment/Vehicles	325.26		<input checked="" type="checkbox"/>		
Equipment Properly Calibrated		<input checked="" type="checkbox"/>			
Storage Locked/Containers Secure		<input checked="" type="checkbox"/>			
Warning Signs Posted			<input checked="" type="checkbox"/>		
Location of Container Disposal: MUNICIPAL					
Location of Pesticide Storage: SHOP					
Water Source: MUNICIPAL					
Pesticide Mixing Area: OUTSIDE SHOP OR ON SITE					
REMARKS: * NURSE TANK					
* NOT for use on "Residential" lawns					
INSPECTOR'S SIGNATURE Dorey R. Dore		DATE AND TIME INSPECTED 6/19/12 1:00pm			

ORNAMENTAL AND TURF CHECKLIST

FIRM/FACILITY: <u>EDWARD DORE LANDSCAPE ASSOC. INC.</u>		INSPECTION #: <u>06191250901</u>				
JOB LOCATION: <u>5911 FISK RD., LEAKED, NY 14094</u>						
COMMERCIAL LAWN APPLICATION CHECKLIST		6 NYCRR Part:	Yes	No	N/A	Un-known
I.	Does a commercial lawn application contract exist between the business and the property owner/agent in charge of the property? - If YES, Complete A-N	325.40(a)		<input checked="" type="checkbox"/>		
A	Is a copy of the valid lawn application contract maintained by the pesticide application company?	325.40(a)(e)		<input checked="" type="checkbox"/>		
B	Does the contract state the name of property owner or his agent and address to be treated?	325.40(a)(5)		<input checked="" type="checkbox"/>		
C	Does the contract contain the approximate and/or specific date or dates of application?	325.40(a)(1)		<input checked="" type="checkbox"/>		
D	Does the contract contain the total cost of all the commercial lawn applications?	325.40(a)(3)		<input checked="" type="checkbox"/>		
E	Does the contract contain the total number of commercial lawn applications for the season?	325.40(a)(2)		<input checked="" type="checkbox"/>		
F	Is contract signed by the pesticide applicator/business and the owner or owner's agent?	325.40(a)(6)		<input checked="" type="checkbox"/>		
G	Was written notice provided if existing contract transferred to different application company?	325.40(b)		<input checked="" type="checkbox"/>		
H	Does contract list substances to be applied, including brand names and generic names of active ingredients? [In 12 point type? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	325.40(a)(4)(i)		<input checked="" type="checkbox"/>		
I	Are pertinent label warnings in contract? [In 12 point type? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	325.40(a)(4)(ii)		<input checked="" type="checkbox"/>		
J	Is business name, address and phone number listed on contract? [In 12 point type? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	325.40(a)(4)(iii)		<input checked="" type="checkbox"/>		
K	Is business registration number listed on contract? [In 12 point type? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	325.40(a)(4)(iii)		<input checked="" type="checkbox"/>		
L	Is applicator certification number listed on contract? [In 12 point type? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	325.40(a)(4)(iii)		<input checked="" type="checkbox"/>		
M	If the specific pesticides for a proposed application date are not listed in the contract, was written/oral notification provided to the owner/agent prior to/at the application?	325.40(d)		<input checked="" type="checkbox"/>		
N	How are alternate dates of application provided?	325.40(c)	Oral <input type="checkbox"/> Written <input checked="" type="checkbox"/> Not Provided <input type="checkbox"/>			
II.	Has application area been visually posted? If Yes, complete A-O	325.40(f)	<input checked="" type="checkbox"/>			
A	Are the visual markers AT LEAST 4" By 5" in size?	325.40(f)	<input checked="" type="checkbox"/>			
B	Are visual markers yellow in color with black lettering?	325.40(f)	<input checked="" type="checkbox"/>			
C	Are all of the letters on the markers AT LEAST 3/8" in height?	325.40(f)	<input checked="" type="checkbox"/>			
D	Is "Pesticide Application" or "Pesticide Treatment" or "Pesticides Applied" on marker front?	325.40(f)(1)		<input checked="" type="checkbox"/>		
E	Do the front of the markers contain the phrase "Do Not Enter"?	325.40(f)(3)		<input checked="" type="checkbox"/>		
F	Do the front of the markers contain the phrase "Do Not Remove Sign For 24 Hours"? *	325.40(f)(4)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
G	Does marker have 1.5" diameter warning symbol (e.g. person & dog w/slash or stern face w/hand)?	325.40(f)(5)	<input checked="" type="checkbox"/>			
H	Does marker contain date & time of application unless provided to owner/agent prior to leaving?	325.40(f)(2)		<input checked="" type="checkbox"/>		
I	Does the marker front contain anything other than D - H above and business name & phone #?	325.40(g)		<input checked="" type="checkbox"/>		
J	Are the top of the markers AT LEAST 12" above the ground?	325.40(h)(1)	<input checked="" type="checkbox"/>			
K	Were markers posted prior to application?	325.40(h)(2)	<input checked="" type="checkbox"/>			
L	Are markers placed such that front of the markers are clearly visible from outside the treated area?	325.40(h)(3)	<input checked="" type="checkbox"/>			
M	Is marker placement not more than 50' apart (4"x5" sign) or not more than 100' apart (5"x6" sign)?	325.40(h)(4)	<input checked="" type="checkbox"/>			
N	Markers also placed at common entry points adjacent to treated areas, such as drive & walkways?	325.40(h)(5)	<input checked="" type="checkbox"/>			
O	Are AT LEAST 2 markers posted on treated premises that have all or portions of the perimeter impassable due to nature/manmade objects, except for treated trees/shrubs approachable one-way?	325.40(h)(6)	<input checked="" type="checkbox"/>			
NOTES: * Not 3/8" either						
INSPECTOR'S SIGNATURE: <u>[Signature]</u>						DATE: <u>6/19/12</u>

NYS Dept of Environmental Conservation URPCEP CHECKLIST *To be used with NAUO, CAR, and RDR inspections*

Inspect Type	Question/Action	Y	N	N A	Remarks
ALL*	1. Opening conference.	✓			
	2. Inspection of pesticide storage area:	✓			
	a Any pesticides on hand that seem inappropriate for establishment or site?		✓		
	b Are there supplies of clean household containers that could be filled with pesticides and left with customer/tenants?		✓		
	c Any pesticides in unlabeled packaging or "household" packaging?		✓		
	d Are restricted use pesticides in storage?	✓			
	e Are there security measures in place to prevent unauthorized entrance and use of pesticides?	✓			
	f Have any pesticides been stolen/ pilfered from inventory - particularly RU or agricultural ones?		✓		
CAR	1. All CAR inspections- conduct review of Applicator records.			✓	
	a Structural Related: Any structural applications of seemingly inappropriate pesticides?				
	b Agricultural Related: Has methyl parathion been used in the last year?				
	Any discrepancies between amount of RU pesticides purchased and applied, or undocumented returns?				
RDR	1. Is this establishment engaged in the retail sale of methyl parathion?				
	2. Do purchasers produce a commodity on which the pesticide is used?				
	a Have all sales of RUPs been made to either:				
	A person who is certified to use it ?				
	An individual under the direct supervision of a currently certified applicator authorized to use the product?				
	3. Have there been sales of methyl parathion EC in the past two years?				
	a What methyl parathion products in particular does the dealer sell? _____				
	b What crops are the products used on? _____				
	4. If this is not a methyl parathion emulsifiable concentrate dealer, have any of the other ag pesticides referenced in attachment "5A" of URPCEP Protocol been sold for the past few years?				
	a If not, have any other agricultural pesticides, particularly RU ones, been sold?				
	5. Does the dealer conduct audits of its pesticide inventory? How often? _____				
	6. Has there ever been an unexplained discrepancy between the amount of methyl parathion or other ag use pesticide in inventory and amount that inventory records indicate should be there?				
	a What was the pesticide?				
	b Was the discrepancy resolved as 1) bookkeeping error? or 2) was theft suspected?				
	7. Has methyl parathion or any RU agricultural pesticide been stolen from inventory? If yes, document particulars (i.e. person's name, the intended use of pesticide) and ask for a copy of any police report, report to the insurance company or other information relating to the theft.				
ALL*	3. Closing conference.	✓			

* When only conducting an NAUO inspection, these blocks of questions/actions are the only ones that need to be covered.

DORE 2010 RPT

4|C9864829||241-341|PENDULUM|2.5|GL|05/04/2010|05/04/2010|18|264 KNAPP
ROAD|PEMBROKE|14036|
0|C9864829||432-1229|FINALE|2|GL|05/04/2010|05/04/2010|18|264 KNAPP
ROAD|PEMBROKE|14036|
0|C9864829||241-341|PENDULUM|2.5|GL|05/05/2010|05/05/2010|14|13819 KNAPP
ROAD|AKRON|14001|
0|C9864829||432-1229|FINALE|2|GL|05/05/2010|05/05/2010|14|13819 KNAPP
ROAD|AKRON|14001|
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ROAD|PEMBROKE|14036|
0|C9864829||241-416|PENDULUM AQUAP CAP|30|OZ|05/21/2010|05/21/2010|18|264
KNAPP ROAD|PEMBROKE|14036|
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ROAD|AKRON|14001|
0|C9864829||241-416|PENDULUM AQUA CAP|6|OZ|05/21/2010|05/21/2010|14|13819
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ROAD|AKRON|14001|
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0|C9864829||279-3105|TALSTAR|8|OZ|07/14/2010|07/14/2010|14|13189 KNAPP
ROAD|AKRON|14001|
0|C9864829||5388-118|BIFEN|86 |OZ|07/14/2010|07/14/2010|14|13189 KNAPP
ROAD|AKRON|14001|
0|C9864829||524-579|ROUNDUP PRO|60|OZ|07/20/2010|07/20/2010|14|13189
KNAPP ROAD|AKRON|14001|
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ROAD|PEMBROKE|14036|
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ROAD|PEMBROKE|14036|
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ROAD|PEMBROKE|14036|

0|C9864829||432-1227|SEVIN |144|OZ|08/10/2010|08/10/2010|14|13189 KNAPP
ROAD|AKRON|14001|||||
0|C9864829||279-3105|TALSTAR|63|OZ|08/10/2010|08/10/2010|14|13189 KNAPP
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ROAD|PEMBROKE|14036|||||
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ROAD|PEMBROKE|14036|||||

DORE 2011

PC986482900.txt

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RD|PEMBROKE|14036|
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RD|PEMBROKE|14036|
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0|C9864829|09999|241-341|PENDULUM 3.3 EC|9.0000|OZ|07/26/2011|07/26/2011|18|264 KNAPP RD|PEMBROKE|14036|
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RD|PEMBROKE|14036|
0|C9864829|09999|432-1229|FINALE|9.0000|OZ|07/27/2011|07/27/2011|18|264 KNAPP RD|PEMBROKE|14036|
0|C9864829|09999|241-341|PENDULUM 3.3 EC|9.0000|OZ|07/27/2011|07/27/2011|18|264 KNAPP RD|PEMBROKE|14036|
0|C9864829|09999|432-1229|FINALE|9.0000|OZ|08/08/2011|08/08/2011|10/10/2011|18|264 KNAPP
0|C9864829|09999|524-579|ROUNDUP PRO MAX|160.0000|OZ|10/10/2011|10/10/2011|18|264 KNAPP
RD|PEMBROKE|14036|
0|C9864829|09999|241-341|PENDULUM 3.3 EC|160.0000|OZ|10/10/2011|10/10/2011|18|264 KNAPP
RD|PEMBROKE|14036|
0|C9864829|09999|524-579|ROUNDUP PRO MAX|104.0000|OZ|10/10/2011|10/10/2011|18|264 KNAPP
RD|PEMBROKE|14036|
0|C9864829|09999|241-341|PENDULUM 3.3 EC|104.0000|OZ|10/10/2011|10/10/2011|18|264 KNAPP
RD|PEMBROKE|14036|
0|C9864829|09999|432-1229|FINALE|9.0000|OZ|10/10/2011|10/10/2011|18|264 KNAPP RD|PEMBROKE|14036|
0|C9864829|09999|241-341|PENDULUM 3.3 EC|4.5000|OZ|10/10/2011|10/10/2011|18|264 KNAPP RD|PEMBROKE|14036|

PC986482900.txt

0|C9864829|09999|524-579|ROUNDUP PRO MAX|40.0000|OZ|10/11/2011|10/11/2011|18|264 KNAPP
RD|PEMBROKE|14036|
0|C9864829|09999|241-341|PENDULUM 3.3 EC|40.0000|OZ|10/11/2011|10/11/2011|18|264 KNAPP
RD|PEMBROKE|14036|
0|C9864829|09999|62719-305|LONTREL|1.5000|OZ|10/11/2011|10/11/2011|18|264 KNAPP RD|PEMBROKE|14036|
0|C9864829|09999|100-1309-74578|TREE - AGE|580.0000|ML|08/17/2011|08/17/2011|14|5329 GREEN
VALLEY|CLARENCE|14031|
0|C9864829|09999|100-1309-74578|TREE - AGE|500.0000|ML|08/23/2011|08/23/2011|14|5329 GREEN
VALLEY|CLARENCE|14031|
0|C9864829|09999|100-1309-74578|TREE - AGE|995.0000|ML|08/24/2011|08/24/2011|14|5329 GREEN
VALLEY|CLARENCE|14031|
0|C9864829|09999|100-1309-74578|TREE - AGE|810.0000|ML|08/25/2011|08/25/2011|14|5329 GREEN
VALLEY|CLARENCE|14031|
0|C9864829|09999|100-1309-74578|TREE - AGE|405.0000|ML|09/26/2011|09/26/2011|14|5329 GREEN
VALLEY|CLARENCE|14031|
0|C9864829|09999|100-1309-74578|TREE - AGE|116.0000|ML|10/12/2011|10/12/2011|14|6429 TONAWANDA
CREEK|PENDLETON|14094|

Division of Solid & Hazardous Materials
Article 33 and 6NYCRR 325

Assignment: Routine
Inspection Report: 061912GD9021
Date of Inspection: June 19, 2012
Date of Report: June 26, 2012

Facility Inspected: Edward Dore Landscape Assoc. Inc.
Person(s) Inspected: Edward Dore
Inspection Site: 5911 Fisk Road
Lockport, New York 14094
(716) 625-8005

BACKGROUND

This was a routine inspection. The following inspections were performed: Business Records (BR), Non-Agricultural Use Observation (NAUO*), and Certified Applicator Record (CAR).

OPENING CONFERENCE

On June 19, 2012 at approximately 1:00pm, I, Gregory R. Davis, PCS I, #GD9, visited Edward Dore Landscape Assoc. Inc. I presented my New York State credentials, and issued a Notice of Inspection to Mr. Edward Dore, President of the business.

THE INSPECTION

Pesticide Certification:

Mr. Dore indicated that he is a certified pesticide applicator; he holds certification identification number C9 864829, certified in category 3A, Ornamentals, Shade Trees & Turf, with an expiration date of 05/21/2013. Mr. Dore said that he has no apprentices.

Use Observation:

Mr. Dore showed me annual reports for the last three years, however, there were no daily application records showing the dosage rate, method of application, target pest, or place of application. The dosage rate was given to me verbally by Mr. Dore. Mr. Dore said he would add the four items of data to his current application records. I recorded the following application as a Non Agricultural Use Observation:

On June 9, 2012, Mr. Dore applied "Lontrel Turf And Ornamental" herbicide, EPA Registration #62719-305, a New York State registered, New York State Restricted Use Product, to lawns at 109 Greenaway Road, Buffalo, New York, 14226. Mr. Dore told me verbally that he treated the lawn areas using a three gallon sprayer, and that he was treating to control broad leaved plantain. The dosage rate Mr. Dore said he used for that property was 0.5 ounce per 1000 square feet. During the inspection at Mr. Dore's office, I read this dosage rate for broad leaved plantain on a Lontrel label that Mr. Dore brought up on his laptop computer. I looked up the product label upon returning to the office, and found that that is twice the rate that is allowed to

be used in New York State per property per year! This product label also states under "Specific Use Restrictions:", "**Do Not** use on residential turfgrass. Turfgrass and lawn uses are restricted to non-residential sites". Thus, this product should not have been used at this property, and not at such a high rate.

Mr. Dore uses a 5 gallon jug as a nurse tank to carry water for mixing product into the three gallon sprayer on site. This serves to assure back flow prevention. He also indicated that he uses up all of the product on site, thereby avoiding the need to label the sprayer as a service container.

Mr. Dore was at first unsure what I meant when I described the registration triangles that are required to be properly mounted and displayed on the sides of all vehicles that transport pesticides. Mr. Dore's secretary produced the last business registration application showing that ten vehicles were listed on it. Mr. Dore then found the manila folder with all (20) triangles in it, that had been on a shelf in the office. He said he would attach them to the trucks that carry pesticides.

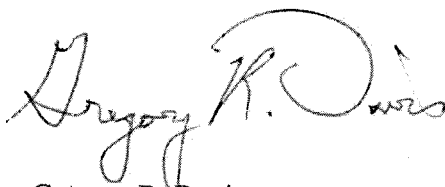
Mr. Dore only purchases pesticides as needed and keeps them locked in his shop. I filled out an URPCPEP form while there, with no problems found. He also showed me a notification marker that he uses, that was not in compliance. It lacked the proper exact wording for "Pesticide Application", "Do Not Enter", and "Do Not Remove Sign For 24 Hours". Mr. Dore also indicated that he does not write the date and time on the marker even though he also does not leave the customer any written notice that he was there making the application.

Mr. Dore told me that he has no contracts. His customers therefore are not getting copies of the label and warnings, and there is no signed contract between the customer and the registered pesticide business.

CLOSING CONFERENCE

A Pesticide Applicator/Use Inspection form was completed for Mr. Dore. He signed for and received copies of all completed inspection report forms.

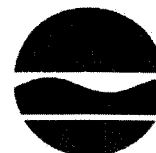
This inspection report will be submitted to Supervisor Glenn Reinhardt, Pesticide Control Specialist II, for review.



Gregory R. Davis
Pesticide Control Specialist I
Region 9

ATTACHMENTS Attachment A - Inspection Report Cover Sheet
 Attachment B - Notice of Inspection
 Attachment C - Certified Applicator/Business/Use Inspections
 Attachment D - Ornamental and Turf Checklist
 Attachment E - URPCPEP form

New York State Department of Environmental Conservation
Division of Materials Management, Region 9
Bureau of Pest Management
270 Michigan Ave, Buffalo, New York 14203-2915
Phone: (716) 851-7220 Fax: 716-851-7226
Website: www.dec.ny.gov



Joe Martens
Commissioner

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

July 9, 2012

Mr. Edward Dore
Edward Dore Landscape Assoc., Inc.
5911 Fisk Road
Lockport, New York 14094

Dear Mr. Dore:

**NOTICE OF VIOLATION OF THE
ENVIRONMENTAL CONSERVATION
LAW**

On June 19, 2012, a Pesticide Control Specialist from this Department completed an inspection of your lawn care business, "Edward Dore Landscape Assoc., Inc.", to determine your level of compliance with New York State laws and regulations related to the application of pesticides. The Department is responsible for the administration and enforcement of laws and regulations pertaining to pesticides in the State of New York, including Articles 15, 33 and 71 of the Environmental Conservation Law (ECL) and Parts 320-329 of Title 6 of the Official Compilation of Code, Rules and Regulations of New York State (6 NYCRR).

Your company, "Edward Dore Landscape Assoc., Inc.", is registered as a business that applies pesticides as part of the company's activities under registration number 09999, expiration 09/30/2014. You are certified as a commercial pesticide applicator with NYSDEC with identification number C9-864829, expiration date 05/21/2013. Such business activities are subject to all applicable New York State laws, rules and regulations related to the application of pesticides.

During the inspection, it was determined that the company is in violation of several regulatory requirements as follows:

Issue #1: Article 33 of the ECL, Title 10, §33.100(1) states: *"Prior to any commercial lawn application the applicator shall enter into a written contract with the owner of the property or his agent specifying the approximate date or dates of application, number of applications, and total cost for the service to be provided and shall supply the property owner or his agent with a written copy in at least 12 point type of:*

- a. *A list of substances to be applied including brand names and generic names of active ingredients;*
- b. *Any warnings that appear on the label of the pesticides to be applied that are pertinent to the protection of humans, animals, or the environment (Note: recent regulatory changes now allow this label information to be provided in an electronic format if acceptable to the recipient); and*
- c. *The company name, address, telephone number, business registration number and applicator certification identification card number."*

Additional requirements are listed in Title 6 NYCRR Part 325.40(a).

During the inspection it was determined that you are not providing commercial lawn care contracts to customers when they are required. This issue was discussed with you during the inspection. It will be necessary for you to develop a compliant contract which reflects these requirements, and submit a sample to this office to indicate that you have corrected this violation.

Issue #2: Title 6 NYCRR Part 325.40(f) & (g) requires that "visual notification markers" must be posted by any pesticide applicator or business performing a commercial lawn application described in this section. Such markers must be at least four inches by five inches in size and letters on the markers must be at least three-eighths of an inch in height. Such markers must, by January 1, 2005, be yellow in color, have lettering which is black in color and be constructed of rigid material. All such markers must include on the front of the marker:

- (1) the phrase "PESTICIDE APPLICATION," or "PESTICIDE TREATMENT," or "PESTICIDE APPLIED";
- (2) the specific date and time of the actual commercial lawn application, unless the date and time are provided to the property owner or owner's agent immediately following application and prior to leaving the premises;
- (3) the phrase "DO NOT ENTER" ; and
- (4) the phrase "DO NOT REMOVE SIGN FOR 24 HOURS"; and
- (5) a prominent visual warning symbol, at least 1.5 inches in diameter, such as a person walking a dog with a slash through the symbol or a stern face with an outward facing raised open hand.

Mr. Edward Dore (NOV)
July 9, 2012
Page 3

Regarding Part 325.40(g), other information states: ***"The only text and image allowed on the front of the marker are those required by this registration and the name and telephone number of the applicator business. Any other text and/or images must be placed on the back of the marker."***

While you were using a visual notification marker, the marker does not bear the correct language for the required statements, "PESTICIDE APPLICATION", "DO NOT ENTER", or "DO NOT REMOVE FOR 24 HOURS." It will be necessary to correct the markers so that they are compliant with the regulatory requirements.

Issue #3: Title 6 NYCRR Part 325.26 discusses identification of commercial pesticide applicators and application equipment or vehicles transporting commercial pesticide applicator equipment. Section 325.26(a) states: ***"Each certified commercial applicator shall be provided by the department with a set of two numbered stickers for each piece of commercial application equipment. These stickers shall be prominently displayed on opposite side of each piece of such equipment or on opposite sides of each vehicle used in transporting such equipment except however:***

- (1) Small pieces of hand-held or portable equipment such as two and one-half gallon sprayers or back pack mistblowers do not require such stickers; and***
- (2) Non-commercial type vehicles transporting small quantities of pesticides or portable pesticide equipment are not required to display stickers if such display will change the rating of the vehicle and thereby limit its access to certain transportation routes normally used."***

During the inspection, it was determined that you had not placed the registration decals provided by the NYSDEC office in Albany on your equipment as required. The 20 decals were found in a manila envelope in the office. It will be necessary to immediately place these decals on all company vehicles transporting pesticides.

Issue #4: Title 6 NYCRR Part 325.25(a) requires that ***"daily pesticide application records be kept which show the kind and quantity of each pesticide used; dosage rates; methods of application; target organisms, and the use, date and place of application for each pesticide used. These records must be maintained on an annual basis, retained for a minimum of three years and shall be available for inspection upon request by the Department."***

After review of your pesticide application records, it was determined that "method of application," "target organism," "dosage rate" and "place of application" were missing from your records. You indicated that you would add these items of information to your records in the future.

Mr. Edward Dore (NOV)
July 9, 2012
Page 4

Issue #5: In addition to checking the completeness of your pesticide application records, a check was made to determine if the pesticides are being applied according to label directions. A random check was made of the recorded application of "Lontrel Turf and Ornamental" herbicide, EPA Registration Number 62719-305. The pesticide was applied on June 9, 2012 to property at 109 Greenaway Road, Buffalo, New York 14226. Your records indicated this product was applied at a rate of 0.5 ounce per 1000 square feet. However, label directions for the product indicate that an application rate of 0.25 ounces per 1000 square feet should be applied. Further, the label directions state under "Specific Use Directions," "Do not use on residential lawns." You are applying this product approximately two times higher than label rates at a site prohibited by label directions.

Following label directions is the most important aspect when using pesticides, and is the cornerstone of both Federal and New York State regulations. Title 6 NYCRR Part 325.2(b) states: *"Pesticides are to be used only in accordance with label and labeling directions or as modified or expanded and approved by the Department"*.

You must be sure to comply with pesticide product label directions in the future.

All the above listed violations must be corrected immediately.

As an enforcement agency, the Department is compelled by the NYS Legislature to initiate enforcement actions, and to assess penalties, when it is determined that violations of the ECL have occurred. The amount of the penalties is prescribed in the law under Article 71 Section 71-2907, which states that any individual who violates any provisions of Article 33 of the ECL shall be liable for a civil penalty not to exceed \$5,000.00 for a first violation, and not to exceed \$10,000.00 for a subsequent offense.

The Department has the ability to exercise enforcement discretion and issue a "Notice of Violation" in cases of minor violations of the requirements. The Department is issuing a "Notice of Violation" for the violations noted as Issues #2, #3 and #4 above. This enforcement discretion is the result of a routine assessment of the Department's enforcement priorities and your willingness to correct the violation(s), and should not be perceived as an acceptance of the violation(s) alleged above.

Should you be found to be applying pesticides in the future in violation of this warning, additional penalties, plus those suspended by this warning, will be assessed.

However, due to the seriousness of the violation indicated in Issues #1 and #5, failure to provide any type of compliant commercial lawn care contracts to your customers and failure to follow the label directions of a pesticide product, the Department will pursue an enforcement action. In order to address these violations without the necessity of a formal hearing, the

Mr. Edward Dore (NOV)

July 9, 2012

Page 5

Department is offering to settle this case via the enclosed Order on Consent which lists the violations and a total amount of \$2,000.00. Execution by a corporate officer of the "Consent by Corporation" and "Corporate Acknowledgment" sections, and payment of the penalty amount, will indicate your concurrence with the conditions as set forth, and conclude this matter. Should you agree, please return the executed Order to me together with payment of the penalty amount, payable to "Commissioner of Environmental Conservation", to the New York State Department of Environmental Conservation, Bureau of Pesticides Management, 270 Michigan Avenue, Buffalo, New York 14203 by August 9, 2012. After the Order is executed by our Regional Director, as representative of the Commissioner, I will return a fully executed copy to you for your records.

Lastly, the Order on Consent contains a requirement wherein you must correct said violations and certify, via the attached "Compliance Verification Affidavit", that actions necessary to come into compliance with the Department's regulatory program have been completed. By completing, signing the form in the presence of a notary public, attaching any requested documents and mailing back to this office, you will have indicated the violations have been corrected. Since the Order on Consent requires the violations be corrected immediately, this Compliance Verification Affidavit and any requested attachments must be submitted to this office by August 9, 2012 to avoid a compliance re-inspection.

Failure to respond to this notice will result in the Department initiating formal enforcement proceedings and the withdrawal of this settlement offer.

Thank you for your cooperation during the inspection process and in promptly addressing these issues. Should you have any questions, or wish to discuss this matter further, please contact me at (716) 851-7220.

Sincerely,



Glenn Reinhardt

Pesticide Control Specialist II

GR:dcg

Enclosure

cc: Mr. Mark Hans, P.E., Regional Materials Management Engineer
Ms. Maureen Brady, Regional Attorney
Mr. Gregory Davis, Pesticide Control Specialist I

COMPLIANCE VERIFICATION AFFIDAVIT

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of:

Mr. Edward Dore
Edward Dore Landscape Assoc., Inc.
5911 Fisk Road
Lockport, New York 14094

I, Edward Dore, being duly sworn, did depose and say that I am the _____
of "Edward Dore Landscape Assoc., Inc.", and "Edward Dore Landscape Assoc., Inc." has corrected the
violations and complied with the requirements of the Notice of Violation issued by the New York State
Department of Environmental Conservation dated July 9, 2012. Please check all appropriate items:

- ☐ I have corrected daily application records and included the "place of application," "dosage rate",
"target pest", and "method of application".
- ☐ I have placed vehicle identification decals on my company vehicle as required.
- ☐ I have developed a written lawn care contract meeting the requirements of Article 33 of the ECL,
Title 10 and Part 325.40. I have attached a sample copy of this contract.
- ☐ I have corrected my pesticide application procedures such that the pesticide product "Lontrel Turf
and Ornamental" herbicide, EPA Registration Number 62719-305, will no longer be applied in violation
of label directions.

List any additional statements being made to the Department here: _____

Signature of Company Officer or Representative

Title of Company Officer or Representative

Subscribed and sworn to before me
on this _____ day of _____, 2012

Notary Public

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations of Articles 15 and 33 of
the Environmental Conservation Law (ECL) and
Title 6 of the Official Compilation of Codes, Rules, and
Regulations of the State of New York (6NYCRR)
Parts 320 - 329

ORDER ON CONSENT
CASE NO. _____

- BY -

Mr. Edward Dore
Edward Dore Landscape Assoc., Inc.
5911 Fisk Rd.
Lockport, NY 14094

1. The New York State Department of Environmental Conservation (ADEpartment@) is responsible for administration and enforcement of laws and regulations pertaining to pesticides in the State of New York, including ECL Articles 15 and 33 and Title 6 NYCRR Parts 320 - 329.
2. Respondent, Edward Dore Landscape Assoc., Inc., is a registered pesticide application business with a main office located in the City of Lockport, County of Niagara, State of New York, assigned identification number 09999, and subject to the requirements of Articles 15 and 33 of the ECL and Title 6 NYCRR Parts 320 - 329.
3. Pursuant to Article 33 of the ECL and the rules and regulations promulgated thereunder, Article 33 of the ECL, Title 10, §33.1001(1) states: Prior to any commercial lawn application the applicator shall enter into a written contract with the owner of the property or his agent specifying the approximate date or dates of application, number of applications, and total cost for the service to be provided and shall supply the property owner or his agent with a written copy in at least 12 point type of:
 - a. a list of substances to be applied including brand names and generic names of active ingredients;
 - b. Any warnings that appear on the label of the pesticides to be applied that are pertinent to the protection of humans, animals, or the environment (note: recent regulatory changes now allow this label information to be provided in an electronic format if acceptable to the recipient) and,

- c. The company name, address, telephone number, business registration number and applicator certification identification card number.
4. The Department has determined that the Respondent violated the statutes and/or rules indicated above in that the Respondent failed to enter into the required contracts with customers, as the Respondent was unable to show any copies of contracts during an inspection completed by the Department on June 19, 2012.
5. Pursuant to Article 33 of the ECL and the rules and regulations promulgated thereunder, Title 6 NYCRR Part 325.2(b) states: "Pesticides are to be used only in accordance with label and labeling directions or as modified or expanded and approved by the Department".
6. The Department has determined that the Respondent violated the statutes and/or rules indicated above in that the Respondent failed to apply the pesticide product "Lontrel Turf and Ornamental" herbicide, EPA Registration Number 62719-305 according to label directions on June 9, 2012 to property at 109 Greenaway Road, Buffalo, NY 14226. Respondent's daily pesticide application records, viewed during an inspection on June 19, 2012, indicated this product was applied at a dosage rate of 0.5 ounce per 1000 square feet. However, label directions for the product indicate that an application rate of 0.25 ounces per 1000 square feet should be applied. Further, the label directions under "Specific Use Directions" state: "Do not use on residential lawns". 109 Greenaway Road, Buffalo, NY 14226 is a residential property. The Respondent is applying this product approximately two times higher than allowable label rates at a site prohibited by label directions.
7. To promote the best interest of the parties, the Respondent affirmatively waives the right to a hearing on this matter as provided by law and consents to the issuing and entering of this Order and agrees to be bound by the provisions, terms and conditions contained herein.

NOW, having considered this matter and being duly advised, IT IS ORDERED THAT:

I. Resolution of Enforcement Action. Upon completion of all obligations created in this Order, this Order settles only all claims for civil and administrative penalties concerning the violations described in this Order against Respondents and related permit requirements.

II. Civil Penalty. With respect to the violations identified in this Order, Respondent is hereby assessed a civil penalty in the amount of \$2000.00 (two thousand dollars) for the above violation of the ECL. The payable penalty amount is due by August 9, 2012. All payments shall be made by check or money order, payable to the Commissioner of Environmental Conservation at the New York State Department of Environmental Conservation, Bureau of Pesticide Management, 270 Michigan Avenue, Buffalo, New York 14203. Payment shall be made by the Respondent, delivered personally or by US mail to the address set forth in this paragraph as stipulated with the payment due immediately upon execution of this Order but no later than August 9, 2012.

III Compliance. That Respondents shall be immediately bound as here and after provided by this Order. In addition, Respondent must correct said violations and certify, via the attached "Compliance Verification Affidavit", that actions necessary to come into compliance with the Department's regulatory program have been completed. This completed Affidavit can be returned separately or with the Order on Consent, but no later than August 9, 2012.

IV Access. For the purpose of monitoring or determining compliance with this Order, employees and agents of the Department shall be provided access to any facility, site or records owned, operated, controlled or maintained by Respondents, in order to inspect and/or perform such tests as the Department may deem appropriate, to copy such records, or to perform any other lawful duty or responsibility.

V. Reservation of Rights. Except as provided in this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the civil, administrative, or criminal rights of the Department or of the Commissioner or her designee (including, but not limited to, nor exemplified by, the rights to recover natural resources damages and to exercise any summary abatement powers) or authorities with respect to any party, including Respondent.

VI Failure, Default, and Violation of Order. Respondents failure to comply fully and in timely fashion with any provision, term, or condition of this Order shall constitute a default and a failure to perform an obligation under this Order and under the ECL and shall constitute sufficient grounds for revocation of any permit, license, certification, or approval issued to Respondent by the Department.

VII Indemnification. Respondents shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondent and its successors (including successors in title) and assigns.

VIII Force Majeure. If Respondent can not comply with a deadline or requirement of this Order, because of an act of God, war, strike, riot, catastrophe or other condition which is not caused by the negligence or misconduct of Respondents and which could not have been avoided by Respondents through the exercise of due care, Respondents shall make its best effort to comply nonetheless and shall, within seventy-two hours (unless notice is required sooner by State or Federal law), notify the Department by telephone and in writing, pursuant to the communications provision of this Order, after it obtains knowledge of any such condition or event and request an appropriate extension or modification of this Order.

IX Submissions. The Respondent shall send all documentation required by this Order to the Department at the following address, unless otherwise noted:

New York State Department of Environmental Conservation
Region 9 Office
Bureau of Pesticides Management
270 Michigan Avenue
Buffalo, New York 14203-2999
Attn: Glenn Reinhardt

X Binding Effect. The provisions of this Order shall inure to the benefit of and be binding upon the Department and Respondent and its successors (including successors in title) and assigns.

XI Modification. If, for any reason, Respondent desires that any term of this Order be changed, Respondent shall make timely written application therefore to the Regional Director of the Department's Region 9 Office setting forth reasonable grounds for the relief sought. The Department of Environmental Conservation agrees not to unreasonably deny a request for extension of time and modification of this Order. No change in this Order shall be made or become effective except as set forth by a written order of the Commissioner or the Commissioner's designee.

XII Entire Order. The provisions of this Order constitute the complete and entire Order issued to the Respondents concerning resolution of the violations identified in this Order. No term, condition, understanding or agreement purporting to modify or vary any term hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal oral or written advice, guidance, suggestion or comment by the Department regarding any report, proposal, plan, specification, schedule comment or statement made or submitted by Respondent shall be construed as relieving the Respondent of its obligations to obtain such formal approvals as may be required by this Order.

XIII Effective Date. The effective date of this Order is the date that the Commissioner or his designee signs it. The Department will provide Respondents (or the Respondents counsel) with a fully executed copy of this Order as soon as practicable after the Commissioner or her designee signs it.

DATED: Buffalo, New York
_____, 2012

Joseph J. Martens, Commissioner,
New York State Department of
Environmental Conservation

By: _____
Abby M. Snyder
Regional Director, Region 9

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CONSENT BY CORPORATION**

Respondent, Mr. Edward Dore, representing Edward Dore Landscape Assoc., Inc., hereby consents to the issuing and entering of the foregoing Order without further notice and waives the right to a hearing herein and agrees to be bound by the provisions, terms and conditions herein.

Respondent

Title

Date: _____

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ACKNOWLEDGMENT FOR CORPORATION RESPONDENT**

STATE OF NEW YORK
COUNTY OF _____

On the _____ day of _____ in the year 2012, before me personally came _____, to me known, who being by me duly sworn did dispose and say that (s)he resides in _____, that (s)he is the _____ of Respondent, the entity described in and which executed the above instrument, and that (s)he signed his (her) name thereto by Order as authorized by said corporation.

Notary Public



DORE LANDSCAPE ASSOCIATES, INC.

5911 Fisk Road
Pendleton, NY 14094
(716) 625-8005
Fax (716) 625-6348

A "DESIGN BUILD" FULL SERVICE LANDSCAPE CORPORATION

Mr. Glenn Reinhardt , Pesticide Control Specialist II
NYS DEC Bureau of Pest Management
270 Michigan Ave.
Buffalo, NY 14203-2915

RECEIVED
NYSDEC - REGION 9

AUG 07 2012

FOIL
REL UNREL

Aug 6, 2012

Dear Glenn;

I am writing regarding your letter of July 9, 2012 regarding violations observed during Glen Davis's on site inspection of June 19, 2012.

First let me say that the inspection was a valuable learning tool, and I have absolutely no problem with the comments made and violations observed.

I am writing only to inquire if there is a way to reduce the financial penalty, as although I am aware the fine, by law, could have been higher, we most likely don't even do \$2,000 in billable spraying.

We also own and operate Akron Tree Farms of NYS LLC, which is where we do a majority of our pesticide application, this is on property we own, so we could operate on a private license.

Since Dore Landscape does a small amount of application of herbicides on our landscape clients we do maintain all DEC required licensing and fees, which exceeds \$500 per year.

Please note, with attached 'application sheets' that I include with this letter, that we use a miniscule amount of restricted products that I need a license for. There are many out there who buy these products and apply with no DEC licensing and fees. This record also shows the very small amount of product, and thus income, that we undertake.

Thank you for any consideration that you can give this matter.

Sincerely;

Ed Dore
President

AUG 07 2012

FOIL
REL UNREL

HerbicideSpray

2012 Dore Landscape

Date	Time	Location	Amount	Roundup	Roundup-Pre	Preemergent	Broadleaf	Nutsedge
20-Mar	8am	Dore Landscape	6 gal		x			
20-Mar	9am	Dore Residence	3 gal		x			
20-Mar	10am	Paull	1gal			x		
20-Mar	11AM	Four Winds Way	5 ga		x			
20-Mar	12:30	Fitzgerald	3 gal		x			
14-Apr	10am	Narins	2gal		x			
14-Apr	11Am	Randy Dowling	1gal		x			
14-Apr	12:30	Patterson Stevens	1 gal		x			
17-Apr	1pm	Vandemark	3gal			x		
17-Apr	2pm	Chouchani	2 ga			x		
17-Apr	2:30	Shin	2 gal					
19-Apr	11:30	Lovullo Landings	3 gal		x			
19-Apr	5pm	Frey Electrei	2 gal		x			
20-Apr	9am	Frey Res.	4 gal		x			
21-Apr	9:30	Gelormini	3 gal		x			
21-Apr	10:00 AM	McIntyre	1 gal			x		

Date	Time	Location	Amount	Roundup	Roundup-Pre	Preemergent	Broadleaf	Nutsedge
21-Apr	11am	Leisure Living	6 gal		x			
21-Apr	12:30	Fitzgerald	2 gal		x			
21-Apr	3pm	Dore Residence	3 ga		x			
26-Apr	10am	Atlantic Irrigation	2 gal		x			
26-Apr	4pm	Wilsman	2 gal		x			
26-Apr	4:30	Kozminski	3 gal		x			
26-Apr	5pm	Camillo	3 gal		x			
30-Apr	4pm	Jack Heim	2 gal		x			
30-Apr	4:30	Carl Heim	1 gal		x			
1-May	10am	Darien lake Rowdy Ridge	3 gal		x			
1-May	4pm	Sidebottom	4 gal		x			
1-May	5pm	Dick Pierce	1 gal		x			
1-May	5:15	Mary Baker	1 gal		x			
1-May	6pm	Pendleton Town Hall	3 gal		x			
1-May	6:45	Wendleville Fire hall	5 gal		x			
5-May	9am	Jeff Burg	1 gal		x			

--	--	--	--	--	--	--	--	--

Date	Time	Location	Amount	Roundup	Roundup-Pre	Preemergent	Broadleaf	Nutsedge
5-May	11am	Chranowski	2 gal		x			
9-May	5pm	Sidebottom	1 gal	x				
9-May	6pm	Fitzgerald	1 gal	x				
11-May	5pm	Holy Cross Cemetery	1 gal		x			
11-May	6:30	Leisure Living	2 gal	x				
12-May	9am	Roger Wall	2 gal		x			
12-May	10am	Inner Harbour	3 gal		x			
12-May	11am	Kozminski	2 gal		x			
12-May	11:30	Wilsman	1 gal		x			
12-May	12pm	Camillo	1 gal		x			
12-May	1pm	Kinkaide	2 gal		x			
12-May	2pm	Paull	1/2 gal				x	
12-May	2:30	Wagle	1/2 gal				x	
12-May	3:30	Fitzgerald	1 gal				x	
12-May	5pm	Dore Residence	1 gal				x	

12-May	6pm	Dore Residence	2 gal		x			
22-May	11am	Four Winds Way	3 gal		x			
22-May	4pm	Fishback	6 gal		x			

Date	Time	Location	Amount	Roundup	Roundup-Pre	Preemergent	Broadleaf	Nutsedge
22-May	5pm	Lamm	2 gal	x				
29-May	5pm	Lamm	1 gal			x		
31-May	4pm	Fishback	2 gal	x				
31-May	5pm	Kinkaide	1gal		1			
6-Jun	6pm	Pendleton Town Hall	2 gal			x		
6-Jun	7pm	Wendleville FireHall	1 gal		x			
9-Jun	2pm	Chouchani	1 gal	x				
9-Jun	3pm	Paull	1/4 gal				x	
12-Jun	4pm	Sam Narins	6 gal		x			
16-Jun	5pm	Dore Residence	2gal	x				
24-May	8-5pm	Darien Lake.their product						

Sent to AIB
8/8/12

COMPLIANCE VERIFICATION AFFIDAVIT

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of:

Mr. Edward Dore
Edward Dore Landscape Assoc., Inc.
5911 Fisk Road
Lockport, New York 14094

I, Edward Dore, being duly sworn, did depose and say that I am the Edward Dore, Pres
of "Edward Dore Landscape Assoc., Inc.", and "Edward Dore Landscape Assoc., Inc." has corrected the
violations and complied with the requirements of the Notice of Violation issued by the New York State
Department of Environmental Conservation dated July 9, 2012. Please check all appropriate items:

☒ I have corrected daily application records and included the "place of application," "dosage rate",
"target pest", and "method of application".

☒ I have placed vehicle identification decals on my company vehicle as required.

☒ I have developed a written lawn care contract meeting the requirements of Article 33 of the ECL,
Title 10 and Part 325.40. I have attached a sample copy of this contract.

☒ I have corrected my pesticide application procedures such that the pesticide product "Lontrel Turf
and Ornamental" herbicide, EPA Registration Number 62719-305, will no longer be applied in violation
of label directions.

List any additional statements being made to the Department here: I have sent

a letter to accompany this

ED Dore
Signature of Company Officer or Representative

Pres.
Title of Company Officer or Representative

Subscribed and sworn to before me
on this 6th day of Aug. 2012

Ruth A. Stegner
Notary Public

RUTH A. STEGNER
Notary Public, State of New York
Qualified in Niagara County
My Commission Expires March 2, 2014

RECEIVED
NYSDEC - REGION 9

AUG 08 2012

FOIL
REL UNREL



DORE LANDSCAPE ASSOCIATES, INC.

5911 Fisk Road
Pendleton, NY 14094
(716) 625-8005
Fax (716) 625-6348

A "DESIGN BUILD" FULL SERVICE LANDSCAPE CORPORATION

To: Glenn Reinhardt

Sept 11, 2012

Total of 2 Progs

Glenn:

I attach the Pesticide Client letter
that I forgot to include in mailing in
August.

Please review & advise.

Thank you: Ed Dore

EdDore@dorelandscape.com

Dore Landscape Associates, Inc.
5911 Fisk Rd. Pendleton, N.Y. 14094-8910
716.625.8005 f. 716.625.6348

August 10, 2012

To: Michael Vaughan 123 Mill St. Clarence Ctr., NY 14032.

Scope of Services: To apply pre and post emergent weed control.

Application address /location: Address same as above. All rear Landscape beds

Target: Existing and potential weeds, so to weaken existing weeds and to prevent weed seeds in the bed from emerging during winter months

Product Information:

Honcho.. manufactured by Monsanto EPA # 524-454

Pendulum..manufactured by BASF Corp., EPA# 241-341.

Date (s) of application (s) Sept 17th, 2012 this is a single application. As we need 3 hours of dry weather, if rain is forecast for this day, we possibly will move to the 18th.

Please turn off your sprinkler if you have an automatic system for that day as Honcho wants the dryness mentioned above. But activate system for following day as pre-emergent product likes to be watered in within a few days.

Interval of Application: This is a single application.

Follow up . No follow up on effecting Honcho success, but beds treated with Pre-emergent control are only effective is the beds are left undisturbed, so no cultivating or vigorous raking is recommended.

Cost. 245.00 plus NYS Sales Tax.

More information on your product is available upon request .

NYSDEC Pesticide Business Reg # 09999

NYSDEC Pesticide Applicator Cert. #C9864829

Address for both is same as on top of letterhead.

Thank you;

Ed Dore
Cellphone 716.583.1089

Labels
Customer
Signature Dore



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF MATERIALS MANAGEMENT • BUREAU OF PEST MANAGEMENT
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INSPECTION REPORT COVER SHEET

Inspection #: <u>090612GD901</u>	Name of Person Contacted: <u>EDWARD P. DORE</u>
Name of Business: <u>AKRON TREE Farms of NY, LLC</u>	Official Position: <u>MANAGER</u>
Street Address: <u>263 KNAPP ROAD</u>	Post Office Address: <u>N/A</u>
City/State/Zip Code: <u>PEMBROKE, NY 140D1</u>	City/Village/Township: <u>PEMBROKE</u>
Telephone Number: <u>716-623-8005</u>	County: <u>GENESSEE</u>

Inspector's Initials	Name of Inspection Form	Form Number
<u>UAC</u>	Notice of Inspection	<u>NOI</u>
<u>UAC</u>	Pesticide Applicator/Business/Use Inspections	<u>USE</u>
<u>UAC</u>	Worker Protection Standard Inspection	<u>WPS</u>
	Worker Protection Standard Inspection Of Family Establishment	FEI
	Liquid Termiticide Use Checklist	TER
	Ornamental and Turf Checklist	T&O
	Voluntary Statement	VOL
	Receipt for Samples	SAM
	Market Place/Restricted Dealers Records Inspection	MKT
	Market Place/Restricted Dealer Records Inspection Continuation Sheet	MPC
	Quarantine Order	QRN
	Quarantine Order Release	QOR
	Recertification/Certification Course Monitoring	RCM
	Experimental Use Permit Checklist	EUP
	Authorization for Medical Record Disclosure	MED

Inspector's Signature: [Signature] Number: GD9 Date: 9/5/12

Inspection Acknowledgment: I acknowledge receiving a copy of the above listed inspection documents initiated by the inspector.

Signature: [Signature] Date: 9/5/12

Print Name: Ed Dore



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~~NOTICE OF INSPECTION~~ ~~USE/MISUSE INSPECTION~~

INSPECTION #	09051260901	DATE	9/5/12	TIME	10:00 ^{SAM} _{PM}	REGION	9
NAME OF INDIVIDUAL	ED DORE			TITLE	MANAGER		
NAME OF FIRM (Note if corporation, partnership, dba, etc.)	AKKON TREE FARMS OF NYS, LLC						
ADDRESS This is the address of the:	263 KNAPP ROAD						
<input checked="" type="checkbox"/> INSPECTION SITE <input checked="" type="checkbox"/> FIRM <input type="checkbox"/> INDIVIDUAL	CITY / VILLAGE			STATE	ZIP		
	PEMBROKE			NY	14001		
TOWNSHIP	COUNTY	PHONE					
PEMBROKE	Genesee	716-625-8005					
REASON FOR INSPECTION <input type="checkbox"/> For the purpose of inspecting and obtaining samples of any pesticides or devices packaged, labeled and released for shipment, samples of any containers or labeling for such pesticides or devices in places where pesticides or devices are produced, or held for distribution or sale. <input checked="" type="checkbox"/> For the purpose of inspecting and obtaining samples of mandated records. <input checked="" type="checkbox"/> For the purpose of inspecting the use of pesticides and sampling pesticides in use to determine if they are being used in compliance with appropriate laws and rules and regulations. <input checked="" type="checkbox"/> For the purpose of inspecting sites where pesticides are being used to collect data on the use of pesticides and to determine whether pesticides are being used in compliance with appropriate laws and rules and regulations. <input type="checkbox"/> Other							
VIOLATION SUSPECTED 							
CONSENT USE/MISUSE							
Voluntary Consent Necessary to Enter for Inspection and/or Sampling. <input type="checkbox"/> The undersigned hereby voluntarily consents to an inspection of _____ of which I am the owner, Agent, or Person-in-Charge, for the purposes of gathering information and/or samples in connection with the administration and enforcement of Article 33 and Section 15-0313 of the Environmental Conservation law relating to pesticides. I understand that I have the right to refuse consent to this entry.							
SIGNATURE			TITLE			DATE	
This inspection is being performed under authority granted by Article 33 and Section 15-0313 of Article 15 of the Environmental Conservation law relating to pesticides and the Federal Insecticide, Fungicide and Rodenticide Act as amended (7 U.S.C. 136 et seq.).							
INSPECTOR INFORMATION							
NAME	TITLE		ID NUMBER	PHONE NUMBER			
Gregory R. Davis	PC 51		609	716-851-7220			
SIGNATURE	OFFICE LOCATION		ACCOMPANIED BY				
Gregory R. Davis	270 MICHIGAN AV, BUFFALO		GLENN REINHARDT # 258				



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PESTICIDE APPLICATOR/BUSINESS/USE INSPECTIONS

INSPECTION NUMBER 09861260901		FIRM/FACILITY/PERSON INTERVIEWED AKRON TREE FARMS & DYES, LLC / ED DORE		EQUIPMENT TYPE/SIZE 80 gal Hyd Sprayer	
TYPE OF INSPECTION: <input type="checkbox"/> Business/Agency <input checked="" type="checkbox"/> Applicator		SITE OF INSPECTION 263 KNAPP ROAD, PEMBROKE, NY 14001			
<input type="checkbox"/> Non-agricultural use <input checked="" type="checkbox"/> Agricultural use		INSURANCE COMPANY/EXPIRATION DATE			
BUSINESS REG. NO./EXPIRATION DATE					

APPLICATOR NAME/CERTIFICATION TYPE	CERTIFICATION ID	CATEGORY/EXPIRATION	SUPERVISED BY
EDWARD P. DORE Commercial	C9864829	3A/5/21/2019	N/A
Tony Brick	Apprentice	3A	ED DORE
Daphne Kroll	"	3A	ED DORE

DATE/TIME/WEATHER CONDITIONS DURING APPLICATION 8-18-12	CROP Asparagus	SITE/SIZE 35 Acres - 4.0 Under Trees	TARGET PESTS BALDWIN
PESTICIDE NAME/EPA REG NO.	METHOD OF APPLICATION	CLASSIFICATION	FORMULATION
Pendulum 3.3 EC Herb	Spray	Gen	Liquid
EPA # 241-341			
Harsh Plus EPA# 524-459	Spray	Gen	Liquid

LABEL/EQUIPMENT REQUIREMENTS	REFERENCE SECTION	Yes	No	NA	APPLICATOR REQUIREMENTS	REFERENCE SECTION	Yes	No	NA
Label Rate Followed	325.2(b)	<input checked="" type="checkbox"/>			Apprentices Properly Supervised	325.7(d)	<input checked="" type="checkbox"/>		
Target Pests on Label	325.2(b)	<input checked="" type="checkbox"/>			Apprentices Trained/Documented	325.10(a)	<input checked="" type="checkbox"/>		
PPE/Cautionary Labeling Followed	325.2(b)	<input checked="" type="checkbox"/>			Apprentice Variance Approved	325.10(b)			<input checked="" type="checkbox"/>
Preharvest Interval/REI per Label	325.2(b)			<input checked="" type="checkbox"/>	I. D. Card in Possession During Use	325.7(a)	<input checked="" type="checkbox"/>		
Crop/Area Treated per Label	325.2(b)	<input checked="" type="checkbox"/>			Label in Possession During Use	325.2(d)	<input checked="" type="checkbox"/>		
Pesticide Containers Properly Labeled	33.1301(1)(b)	<input checked="" type="checkbox"/>			Notification Requirements Met	33-0905(5)			
Service Containers Properly Labeled	33.1301(1)(b)			<input checked="" type="checkbox"/>	REPORTS/RECORDS	33-1205(1)	Yes	No	
Containers Properly Rinsed and Disposed	325.4(a)	<input checked="" type="checkbox"/>			EPA Reg. No.		<input checked="" type="checkbox"/>		
Backflow Prevention/Air Gap Present	325.2(c)		<input checked="" type="checkbox"/>		Product Name		<input checked="" type="checkbox"/>		
Proper Stickers on Equipment/Vehicles	325.26			<input checked="" type="checkbox"/>	Quantity		<input checked="" type="checkbox"/>		
Equipment Properly Calibrated		<input checked="" type="checkbox"/>			Date Applied		<input checked="" type="checkbox"/>		
Storage Locked/Containers Secure		<input checked="" type="checkbox"/>			Address		<input checked="" type="checkbox"/>		
Warning Signs Posted			<input checked="" type="checkbox"/>		Place of Application		<input checked="" type="checkbox"/>		
Location of Container Disposal: DUMPSTER					Dosage Rate		<input checked="" type="checkbox"/>		
Location of Pesticide Storage: BARN					Method of Application		<input checked="" type="checkbox"/>		
Water Source: WELL					Target Organism/Crop Treated		<input checked="" type="checkbox"/>		
Pesticide Mixing Area: OUTSIDE BARN					Records Kept 3 Years		<input checked="" type="checkbox"/>		

REMARKS:

INSPECTOR'S SIGNATURE:
 DATE AND TIME INSPECTED: **9/5/12 10 AM**



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WORKER PROTECTION STANDARD INSPECTION

Inspection # <u>090612G0901</u>	Date: <u>9/5/12</u>	Inspection: <input type="checkbox"/> Unannounced <input checked="" type="checkbox"/> Appointment
Firm/Farm Name <u>AKRON TREE FARMS & NYS, LLC</u>	Inspection Type: Tier I <input checked="" type="checkbox"/> or Tier II <input type="checkbox"/>	
Type of Establishment: (check all applicable): <input type="checkbox"/> Farm <input type="checkbox"/> Greenhouse <input checked="" type="checkbox"/> Nursery <input type="checkbox"/> Family establishment <input type="checkbox"/> Research <input type="checkbox"/> Forest		
Approx. total area of establishment: <u>35 Acres</u>	Principal crops: <u>TREES</u>	
# of certified applicators with establishment: <u>1</u>	Name of person(s) directing/controlling pesticide use: <u>ED DOKE</u>	
Who applies pesticides? (check all applicable): <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> Employee <input type="checkbox"/> Custom Applicator		
Note: For data in this block, estimates provided by the establishment are sufficient.		
# present at this inspection:	workers <u>1</u>	handlers <u>2</u>
1. # present during last pesticide application:	workers <u>0</u>	handlers <u>2</u>
2. or for the last 30 days: (circle one)	workers <u>0</u>	handlers <u>0</u>
# of permanent employees:	workers <u>9</u>	handlers <u>3</u>
# of seasonal employees:	workers <u>0</u>	handlers <u>0</u>

INFORMATION AT A CENTRAL LOCATION

40 CFR 170.122/135

How to Comply Manual

		Page #
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u>	Is the approved SAFETY POSTER displayed?	23
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u>	Is EMERGENCY MEDICAL INFORMATION displayed? (name, address & telephone number)	24
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u>	Is the site LOCATED where it can be readily seen and read by workers & handlers?	24
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u>	Are workers & handlers INFORMED of the location and are they allowed ACCESS to the site?	24
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u>	Does the information remain LEGIBLE while posted?	24
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u>	Is the following APPLICATION INFORMATION displayed? -Location and Description of the treated area; - Product Name; -EPA REG #; - Active Ingredient(s) of the pesticide; -Time & Date of application; - REI (restricted entry interval)	23

Comments (explain NA): _____

PESTICIDE EXPOSURE INCIDENTS/EMERGENCY ASSISTANCE

40 CFR 170.160

How are incidents reported for employees who become sick/injured by pesticides?		<u>CALL ED DOKE</u>
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u>	Is prompt transportation to emergency medical facility available for employees who become sick/injured by pesticides?	36
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u>	Is information provided to medical personnel regarding the pesticide to which employees may have been exposed?	36
Who is the person responsible for providing transportation and pesticide information?		<u>ED DOKE</u>
<u>Y</u> <input checked="" type="checkbox"/> <u>N</u> <input type="checkbox"/>	Have there been any pesticide exposure incidents on this farm? If yes, give details:	

Comments (explain NA): _____

EMPLOYER/CUSTOM APPLICATOR INFORMATION EXCHANGE

NA (no custom applications) 40 CFR 170.124 & 170.224

<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u>	Does the ag establishment notify the custom applicator regarding the location of treated areas and REIs?	34
<u>NA</u> <input checked="" type="checkbox"/> <u>Y</u> <input type="checkbox"/> <u>N</u>	Does custom applicator notify the ag establishment of required application information before the application?	33

How is the information exchanged? When/with whom? _____

Inspection # 09061250901

PESTICIDE SAFETY TRAINING ASSURANCE

40 CFR 170.130

How to Comply Manual

Page #

WORKERS: (Applies to workers who are NOT certified applicators or trained handlers)

- NA ✓ Y N Does Ag Employer ASSURE that workers have been trained within the last five years? 25
- NA ✓ Y N Does Ag Employer ASSURE that workers have been trained *before EARLY ENTRY activities* during an REI? 25
- NA ✓ Y N Is the Ag Employer able to VERIFY that the required PESTICIDE SAFETY INFORMATION was provided to workers *before entry into any area on an ag establishment where WPS pesticides have been applied within the last 30 days?* 26
- NA ✓ Y N Does Ag Employer ASSURE that workers have received the required ADDITIONAL TRAINING *before the sixth day of entry into any area on an ag establishment where WPS pesticides have been applied within the last 30 days?* 26

HANDLERS: (Applies to handlers who are NOT certified applicators or certified crop advisers) **40 CFR 170.230**

- NA ✓ Y N Does Ag Employer ASSURE that handlers have been trained within the last five years? 25/26
- NA ✓ Y N Does Ag Employer ASSURE that handlers have been trained *before performing any handling task?* 25/26

How is training verified for both workers and handlers? RECORDS, Training

Comments (explain NA):

PESTICIDE SAFETY TRAINING PROGRAM

NA (if workers trained elsewhere)

40 CFR 170.130/230

- NA ✓ Y N **WORKERS & HANDLERS:** Is the information presented in a manner that the workers & handlers can understand (such as through a translator & using nontechnical terms & presenter answers questions)? 27
- NA ✓ Y N **WORKERS:** Does the PESTICIDE SAFETY INFORMATION meet the criteria listed in 170.130(c)? 26
- NA ✓ Y N **WORKERS:** Does the content of the ADDITIONAL TRAINING materials meet the criteria listed in 170.130(d)(4)? 103
- NA ✓ Y N Is trainer qualified to train **WORKERS**? (certified applicator or authorized by DEC) 26
- NA ✓ Y N **HANDLERS:** Does the content of the training materials meet the criteria listed in 170.230(c)(4)? 104
- NA ✓ Y N Is the trainer qualified to train **HANDLERS**? (certified applicator or authorized by DEC) 26

Who trains workers/handlers? ED DOANE

When/how often? Winter, 5 years

Comments (explain NA):

DECONTAMINATION SITES

The employer must adhere to the following decontamination requirements for **WORKERS and HANDLERS:** **40 CFR 170.112/150/250**

- NA ✓ Y N Do decontamination sites have soap, single-use towels, and enough water for washing & emergency eye flushing? 29-31
- NA ✓ Y N Is the decontamination water of a quality & temperature as required? 29
- NA ✓ Y N Is one pint of eye flush water immediately available to handlers using pesticides requiring protective eye wear and to early entry workers when working in areas treated with pesticides requiring protective eye wear for early entry? 31/68
- NA ✓ Y N Is the decontamination site within 1/4 mile of the work site and out of areas being treated or under REI? 30/31
- NA ✓ Y N Are decontamination sites provided for workers entering treated areas until 30 days following expiration of the REI? 29
- (Exception: Pesticides with a four-hour REI require decontamination site for only seven days.)
- ✓ NA Y N Are decontamination sites provided for early entry workers during and after early entry? 67/68

The employer must adhere to the following decontamination requirements for **HANDLERS:**

40 CFR 170.250

- NA ✓ Y N Is enough water provided to handlers for washing the entire body in case of an emergency? 30
- NA ✓ Y N Is one clean change of clothing provided to handlers for use in an emergency? 30
- NA ✓ Y N Are decontamination supplies located at the mix/load site? 30/31
- ✓ NA Y N Are decontamination supplies for PILOTS kept in the airplane or at the aircraft loading site? 30
- NA ✓ Y N Are handler decontamination supplies kept out of treated areas unless they are in enclosed containers? 31
- NA ✓ Y N Are decontamination supplies located where handlers remove PPE for washing thoroughly after handling activities? 31

Comments (explain NA):

Inspection # 09061260901

ADDITIONAL DUTIES FOR WORKER EMPLOYERS

40 CFR 170.110

How to Comply Manual

Page #

RESTRICTIONS DURING APPLICATIONS

- ☐ NA ☒ Y ☐ N Are workers prohibited in treated areas during application and until REIs have expired? 45
- ☐ NA ☒ Y ☐ N Are workers prohibited in treated areas plus the additional buffer area during application in NURSERIES? 51/52
- ☒ NA ☐ Y ☐ N Are workers prohibited in a GREENHOUSE during application and until ventilation criteria are met? 53-55

NOTICE OF APPLICATIONS TO WORKERS

40 CFR 170.120

- ☒ NA ☐ Y ☐ N Are all GREENHOUSE applications posted with WPS warning signs? 42
- ☐ NA ☒ Y ☐ N Are workers given BOTH oral and posted notification when required by the pesticide label? 41-44
- ☐ NA ☒ Y ☐ N Are workers given notification of applications (EITHER orally or posted) for other applications? 41-44
- ☐ NA ☒ Y ☐ N Are workers told which method will be routinely used at this firm (oral or posted notification)? - circle one 41

Who notifies workers? ED DORR

- ☐ NA ☒ Y ☐ N Have any early entry activities occurred?
- ☒ NA ☐ Y ☐ N Were workers informed of label restrictions re: early entry?

Posted Warning Signs ☐ NA for all

- ☐ NA ☒ Y ☐ N Does the employer use the approved WPS warning signs for posted notification? 42/43
- ☐ NA ☒ Y ☐ N Are the signs posted at all entrances of worker entry to the treated area? 42
- ☐ NA ☒ Y ☐ N Are the signs put up no sooner than 24 hours prior to application? 43
- ☐ NA ☒ Y ☐ N Are the signs removed within three days after the end of the REI? 43
- ☐ NA ☒ Y ☐ N Are the signs posted along the border of any labor camp adjacent to the treated area? 42

Oral Warnings ☐ NA for all

- ☐ NA ☒ Y ☐ N Are oral warnings given in a language (s) understood by workers? 44
- ☐ NA ☒ Y ☐ N Do oral warnings include: 1) location & description of treated area; 2) REI; 3) instructions not to enter during the REI? 44

Comments (explain NA):

ADDITIONAL DUTIES FOR HANDLER EMPLOYERS

APPLICATION RESTRICTIONS & MONITORING ☐ NA if no handlers employed **40 CFR 170.210**

- ☐ NA ☒ Y ☐ N *Do both the employer & the handler assure that no pesticide is applied (either directly or through drift) so as to contact anyone other than trained and PPE-equipped handlers: 73
- How is this verified?
- ☒ NA ☐ Y ☐ N Are handlers monitored visually or by voice every two hours when handling SKULL & CROSSBONES pesticides? 73
- ☒ NA ☐ Y ☐ N Does the handler have a continuous visual or voice contact with another trained and PPE-equipped handler when handling a FUMIGANT in a GREENHOUSE? 73/74

SPECIFIC INSTRUCTIONS FOR HANDLERS ☐ NA if no handlers employed **40 CFR 170.232**

- ☐ NA ☒ Y ☐ N Does the employer assure that handlers read the label or are informed (in a manner they can understand) about the label requirements for safe use before performing any handling activity? 75
- ☐ NA ☒ Y ☐ N Does the handler have access to the product labeling during handling activities? 75

SAFE OPERATION OF EQUIPMENT ☐ NA if no handlers employed **40 CFR 170.234**

- ☐ NA ☒ Y ☐ N Is the handler instructed in the safe operation of handling equipment before it is used? By whom? ED DORR 75
- ☐ NA ☒ Y ☐ N Is handling equipment inspected and repaired before each day of use? 77
- ☐ NA ☒ Y ☐ N Does the employer assure that only trained and PPE-equipped handlers repair, clean or adjust any handling equipment that contains pesticides or pesticide residues? 77

Comments (explain NA):

PERSONAL PROTECTIVE EQUIPMENT REQUIREMENTS FOR HANDLERS/EARLY ENTRY WORKERS

40 CFR 170.112/240

- NA Y N Does the employer provide the handler/early entry workers with the appropriate PPE in clean and operating condition? 79
- NA Y N Does the employer assure that instruction on use and cleaning of PPE is given and that it is worn and used correctly? 79
- Who gives instructions and assures use of PPE? ED DORE
- NA Y N Does the employer assure that PPE is inspected, cleaned, stored properly & repaired or replaced before each day of use? 79
- NA Y N Does the employer assure that filters are replaced on respirators when required? 80
- NA Y N Do handlers/early entry workers have a clean place to store personal clothing, put on PPE and remove PPE after use? 79
- Where is it located? BARN AREA
- NA Y N Is contaminated PPE disposed of properly? 79
- NA Y N Does the employer take appropriate measures to prevent heat-related illness for handlers/early entry workers using PPE? 79
- NA Y N Have handlers refused to wear proper PPE?

From labels of agricultural pesticides documented in an accompanying AUO inspection, list the following (for up to 4 products):

	Product Name	REI	PPE
1	Pendy/4m	24	Long sleeve shirt & long pants, gloves, shoes & socks
2	Honcho Plus	12	Gloves, shoes & socks, goggles
3			
4			

If the label for any of the above products does not include agricultural use requirements - state so above.

Comments (explain NA):

WORKER AND HANDLER INTERVIEWS

- Y N Were any workers or handlers interviewed? (circle which were) If no for either, explain why an interview was not conducted.

FAMILY ESTABLISHMENTS

40 CFR 170.194/110/112/124/224/240

- NA Y N Are employees only spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers, sisters? 91
- If NO, skip this section.
- NA Y N Are non-handlers prohibited in treated areas during application and until REIs have expired? 92
- NA Y N Are non-handlers prohibited in treated areas plus the additional buffer area during application in NURSERIES? 92
- NA Y N Are non-handlers prohibited in a GREENHOUSE during application and until ventilation criteria are met? 92
- NA Y N Are early entry workers prohibited in treated areas during the first four hours after application? 93
- NA Y N Are early entry workers limited to one hour of work in a 24-hour period in treated areas during the REI? 93
- NA Y N Are early entry workers who perform irrigation and limited contact activities limited to eight hours of work in a 24-hour period? 93
- NA Y N Is the correct PPE for early entry PROVIDED for early entry activities at this firm? 93
- NA Y N Does the handler at this firm wear the label-specified PPE during handling tasks? 92
- NA Y N Is the label-specified PPE for handling activities at this firm PROVIDED in clean and operating condition? 92
- NA Y N Does this establishment notify commercial handlers regarding location of treated areas and REIs on the establishment? 92
- NA Y N Do commercial handlers notify this establishment of required application information before application takes place? 92

Comments (explain NA):

Additional Comments:

Print name of inspector <u>GREGORY R. DAVIS</u>	Print name of person interviewed <u>ED DORE</u>
Signature of inspector <u>GREGORY R. DAVIS</u>	Signature of person interviewed <u>ED DORE</u>

NYS Dept of Environmental Conservation URPCEP CHECKLIST To be used with NAUO, CAR, and RDR inspections

Inspect Type	Question/Action	Y	N	N A	Remarks
ALL*	1. Opening conference.	✓			
	2. Inspection of pesticide storage area:	✓			
	a Any pesticides on hand that seem inappropriate for establishment or site?		✓		
	b Are there supplies of clean household containers that could be filled with pesticides and left with customer/tenants?		✓		
	c Any pesticides in unlabeled packaging or "household" packaging?		✓		
	d Are restricted use pesticides in storage?		✓		
	e Are there security measures in place to prevent unauthorized entrance and use of pesticides?	✓			
	f Have any pesticides been stolen/ pilfered from inventory - particularly RU or agricultural ones?		✓		
CAR	1. All CAR inspections- conduct review of Applicator records.	✓			
	a Structural Related: Any structural applications of seemingly inappropriate pesticides?			✓	
	b Agricultural Related: Has methyl parathion been used in the last year?		✓		
	Any discrepancies between amount of RU pesticides purchased and applied, or undocumented returns?		✓		
RDR	1. Is this establishment engaged in the retail sale of methyl parathion?			✓	
	2. Do purchasers produce a commodity on which the pesticide is used?				
	a Have all sales of RUPs been made to either:				
	A person who is certified to use it?				
	An individual under the direct supervision of a currently certified applicator authorized to use the product?				
	3. Have there been sales of methyl parathion EC in the past two years?				
	a What methyl parathion products in particular does the dealer sell? _____				
	b What crops are the products used on? _____				
	4. If this is not a methyl parathion emulsifiable concentrate dealer, have any of the other ag pesticides referenced in attachment "5A" of URPCEP Protocol been sold for the past few years?				
	a If not, have any other agricultural pesticides, particularly RU ones, been sold?				
	5. Does the dealer conduct audits of its pesticide inventory? How often? _____				
	6. Has there ever been an unexplained discrepancy between the amount of methyl parathion or other ag use pesticide in inventory and amount that inventory records indicate should be there?				
	a What was the pesticide?				
	b Was the discrepancy resolved as 1) bookkeeping error? or 2) was theft suspected?				
	7. Has methyl parathion or any RU agricultural pesticide been stolen from inventory? If yes, document particulars (i.e. person's name, the intended use of pesticide) and ask for a copy of any police report, report to the insurance company or other information relating to the theft.				
ALL*	3. Closing conference.	✓			

* When only conducting an NAUO inspection, these blocks of questions/actions are the only ones that need to be covered.



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF SOLID AND HAZARDOUS MATERIALS • BUREAU OF PESTICIDES MANAGEMENT
www.dec.state.ny.us

WORKER PROTECTION STANDARD AGRICULTURAL HANDLER INTERVIEW QUESTIONNAIRE

Inspection # (if interview related to an inspection):	090612GD901
Name of Establishment:	AKRON TREE FARMS OF NYS, LLC
Date of Interview:	09-06-12
# of Handlers Interviewed:	ONE
Were handlers accompanied by employers during interview?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Interview Conducted	<input checked="" type="checkbox"/> onsite <input type="checkbox"/> offsite

Training and Notification

- Did you receive pesticide safety training? ☒ Yes ☐ No
If yes, what type of training did you receive?
_____ movie _____ flip chart (bring a picture of a flip chart) ☒ lecture ☒ handbook
- Do you have something that verifies you were trained as a handler. (It may help to show a sample of the handler card.)
☐ EPA WPS handler training verification card
☐ NYS certified pesticide applicator card.
☒ Other VERBAL
- Was the training in your native language? ☒ Yes ☐ No
- Were you trained before you began performing handling tasks? ☒ Yes ☐ No
When did you receive the training? 4 yrs Ago
- Who trained you? ED DORE
- When you were trained, were you taught about how to wear, use and maintain special clothes (PPE), such as gloves, boots, coveralls, mask? ☒ Yes ☐ No
- When you were trained, were you taught about heat stress and how to recognize its symptoms in yourself? (eg. how to know when you are starting to get heat stress, how to avoid it, what to do if you feel sick from it) ☒ Yes ☐ No
- Are you notified when and where pesticide applications are occurring? ☒ Yes ☐ No
- (Show the safety poster) Where is the safety poster located? INSIDE POLE BARN
- (Show an example of application records) Has anyone ever showed you where these records are kept?
☒ Yes ☐ No If yes, where are they located? INSIDE BARN

Pesticide Applications

- Verify how handlers are monitored:

During use of skull/crossbones labeled products.

DO NOT USE

During greenhouse fumigations.

NO Greenhouse on site

Worker Protection Standard
NYSDEC Agricultural Handler Interview Questionnaire

12. Are the labels for pesticides used at the establishment available for you to read and legible in a language you understand? ☒ Yes ☐ No
13. Does the employer ensure that before you perform any handling activity, you are informed of labeling requirements related to safe use of the pesticide?
Or,
If you are able to read and understand pesticide labels, are legible copies of labels for the pesticides used available to you during handling tasks? ☒ Yes ☐ No

14. Are you trained in equipment use? ☒ Yes ☐ No

15. Who cleans and maintains the equipment? Anthony Brick

Personal Protective Equipment (PPE)

16. Is PPE provided for you? ☒ Yes ☐ No

17. After you read the pesticide label, is all of the PPE required by the labels for products you use available to you? ☒ Yes ☐ No

18. Who cleans and maintains the PPE? SELF

19. Where is the room where you change into PPE? in Pole BARN

20. Where is the PPE and your regular clothing stored? in Pole in Locker at DOBE LANDSCAPE

21. Do you ever wear or take PPE home? ☐ Yes ☒ No

22. Identify if handlers use closed system, enclosed cab, open or closed cockpit, and any reduced PPE substituted for these systems.

23. List PPE the handlers use for the labels examined.

Name of Pesticide Label Examined	PPE Required for Handler Uses
<u>PENDULUM 3.3 EC</u>	<u>Chem Res. Gloves, Shoes & Socks</u>
<u>HONCHO 524-445</u>	<u>Long Sleeved Shirt, long pants</u>
	<u>Long Sleeved Shirt, long pants, shoes</u>
	<u>plus socks, protective Eyewear</u>

Decontamination Supplies

24. Are decontamination supplies always available to you? ☒ Yes ☐ No

25. Is there ☒ water ☒ paper towels ☒ soap ☒ eye wash ☒ change of clothing, available all day?
If so, where? in pole Barn, water by well

Is this location more than 1/4 mile from the work site? ☒ Yes ☐ No
(Inspector verify if handler does not know.)

Emergency Assistance

26. Do you know what to do if you are exposed to pesticides? ☒ Yes ☐ No

What procedures are set up for when someone's been exposed?

go to well, wash up, change clothes

27. Who provides transportation to the emergency room at the hospital or clinic? DIAL 911

28. Who provides information on the incident to medical personnel? ED DORE OR SELF

Retaliation

29. Have you ever been hindered from following PPE or proper pesticide application or re-entry interval procedures? ☐ Yes ☒ No

30. Have you ever spoke up about or complained about something relating to pesticides and your work at the farm and been threatened to be fired? ☐ Yes ☒ No

Please briefly tell me about this: _____

31. Record details about any incidents of retaliation.

N/A

Exposure

32. Were you ever sprayed/dusted with pesticides or exposed to pesticides drifting from another person's application of pesticides? ☐ Yes ☒ No

If so, tell me approximately when and how this happened. _____

33. Do you take pesticide containers home with you? ☐ Yes ☒ No

A. If yes, what do you use them for? N/A

B. Are chemicals ever in the containers? ☐ Yes ☒ No N/A

34. Have you ever felt as though pesticides/poisons have made you sick after applying them? ☐ Yes ☒ No

35. Is there a process in place for you to report that you were exposed to pesticides? ☒ Yes ☐ No

If yes, tell me about how it works: Tell Employer

36. Did you tell your employer or foreman about your pesticide exposure? ☐ Yes ☒ No N/A

Division of Solid & Hazardous Materials
Article 33 and 6NYCRR 325
Assignment: Routine
Inspection Report: 090612GD901
Date of Inspection: September 6, 2012
Date of Report: September 12, 2012

Facility Inspected: Akron Tree Farms of NYS, LLC
Person Inspected: Edward P. Dore
Inspection Site: 263 Knapp Road
Pembroke, New York 14001
(716) 625-8005

BACKGROUND

This was a routine inspection. The following inspections were performed: Agricultural Use Observation (AUO*), Certified Applicator Records (CAR), and Worker Protection Standard (WPS).

OPENING CONFERENCE

On September 6, 2012 at 10:00am I, Gregory R. Davis, Pesticide Control Specialist I, #GD9 and Glenn Reinhardt, Pesticide Control Specialist II, #268, identified ourselves and presented our New York State credentials to Mr. Edward P. Dore, Manager of Akron Tree Farms of NYS, LLC. I issued a Notice of Inspection to Mr. Dore.

THE INSPECTION

Pesticide Certification:

This facility employs one Certified Applicators. Mr. Dore himself, certification identification number C9 864829, certified in category 3A - Trees, Ornamentals and Turf, with an expiration date of 5/21/2013. Anthony Brick and Daphne Kroll are both trained and documented Apprentices on the tree farm.

Use Observation:

I conducted an Agricultural Use Observation (AUO*) from the pesticide application records and by interviewing Mr. Dore, who supervised the application. "Pendulum 3.3EC Herbicide", EPA registration number 241-341, a New York State registered, general use product, and Honcho Plus, EPA registration number 524-454, were applied on August 17, 2012 to the ground under the nursery trees to control all vegetation. They were applied at a rate of 4.8 quarts per acre, and 1.5% respectively, which are both within the label rates of 3.6 - 4.8 quarts per acre and 0.5% - 10.0% respectively. The labels also indicated restricted entry intervals of 24 hours and 12 hours respectively. Mr. Dore showed us the personal protection equipment that he and the handlers/apprentices use in accordance with the labels. All other label directions appear to have been followed.

Mr. Dore showed us his pesticide mixing area, but there he was not utilizing an air gap for backflow prevention on a rigid tank fill pipe. He indicated that he would install one soon.

After viewing the pesticide storage area I completed an URPEP checklist with Mr. Dore with no problems found.

Worker Protection Standard:

This site is approximately 38 acres, with the principal crop being ornamental trees and shrubs. There are three handlers at this establishment. There are 9 permanent workers and no seasonal workers employed by the facility.

The Central Location was located in the employee barn. The required EPA safety poster was displayed with the proper emergency medical information on it. Pesticide application information is displayed on application forms and placed on a clipboard in the barn. Mr. Dore verbally warns workers when pesticide applications will be made at the nursery. Mr. Dore also indicated that he would purchase proper pesticide application warning signs and post them at the gate to the nursery just for added safety to his workers.

There have been no pesticide exposure incidents at the facility. Mr. Dore indicated that he would be the person responsible for providing transportation to an emergency medical facility if an employee did become sick or injured by pesticides.

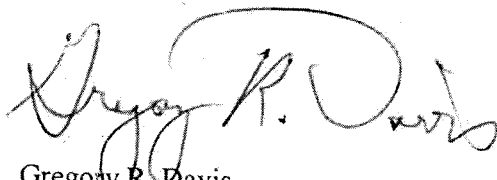
Custom pesticide applications are not made at this facility.

Mr. Dore explained that he has done the pesticide safety training of his workers and handlers, and that all training was documented for each individual. Mr. Russell showed us the safety poster with medical emergency information, the decontamination site, and the location of personal protection equipment, and application records. All appeared to be in compliance.

Specialist II Glenn Reinhardt conducted a worker interview with Anthony Brick, one of the facility's employees. Mr. Brick indicated that he was knowledgeable about the information site and decontamination site, and therefore, appeared to be properly trained in compliance with the Worker Protection Standard.

CLOSING DISCUSSIONS

I reviewed all completed inspection paperwork with Mr. Russell and provided him with copies of each document. I had him read and sign the Inspection Report Cover Sheet and provided him with a copy of said document. This concluded the inspection. We thanked him for his time and left the premises.



Gregory R. Davis
Pesticide Control Specialist I
Region 9

ATTACHMENTS

- Attachment A - Inspection Report Cover Sheet
- Attachment B - Notice of Inspection
- Attachment C - Certified Applicator/Business/Use Inspections
- Attachment D - Worker Protection Standard Inspection pages 1-4
- Attachment E - URPEP form
- Attachment F - WPS Worker Interview Questionnaire

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr Ed Dore
Ed Dore Landscape Assoc
5911 Fisk Rd
Lockport NY 14094

2. Article Number
(Transfer from service label)

7005 3110 0001 7021 3072

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Ed Dore

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Ed Dore

C. Date of Delivery

9/19

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes

☒ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☒ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

Domestic Return Receipt

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Sent To Ed Dore E.D. Landscape Assoc
 Street, Apt No., 5911 Fisk Rd
 or PO Box No.
 City, State, ZIP+4[®] Lockport NY 14094

PS Form 3800, June 2002[®] See Reverse for Instructions

2005 1110 0001 2012 3072

GR/File

New York State Department of Environmental Conservation
Division of Materials Management, Region 9
Bureau of Pest Management
270 Michigan Ave, Buffalo, New York 14203-2915
Phone: (716) 851-7220 Fax: 716-851-7226
Website: www.dec.ny.gov



Joe Martens
Commissioner

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

September 17, 2012

Mr. Edward Dore
Edward Dore Landscape Assoc., Inc.
5911 Fisk Road
Lockport, New York 14094

Dear Mr. Dore:

On September 6, 2012, a Pesticide Control Specialist from this Department completed an inspection of "Akron Tree Farms of NYS, LLC", to determine your level of compliance with New York State laws and regulations related to the application of pesticides. The Department is responsible for the administration and enforcement of laws and regulations pertaining to pesticides in the State of New York, including Articles 15, 33 and 71 of the Environmental Conservation Law (ECL) and Parts 320-329 of Title 6 of the Official Compilation of Code, Rules and Regulations of New York State (6 NYCRR) and has the authority to inspect under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA Section 12(a)(2)(g)) and the Code of Federal Regulations (40CFR 170) related to the Federal Worker Protection Standard (WPS).

You are certified as a commercial pesticide applicator with NYSDEC with identification number C9-864829, expiration date 05/21/2013. Such certification does allow you to use general and restricted pesticides in the production of agricultural commodities, such as ornamental trees and shrubs. These business activities are subject to all applicable New York State laws, rules and regulations related to the application of pesticides. This activity is also subject to the requirements of the Federal Worker Protection Standard, since this part of the business is growing and/or maintaining agricultural commodities, and your farm employs a number of workers.

The Department has determined that you have complied with the basic requirements of the Federal Worker Protection Standard.

1. 40 CFR 170.135 requires employers of agricultural workers and handlers to display a pesticide safety poster in a location designated as the central posting area. This poster must also include information on emergency medical information.

You have displayed the required safety poster at a central location accessible to workers in the pole barn on the farm, and emergency medical information was available as required (listed on the poster).

2. 40 CFR 170.122 requires that specific information on pesticide applications, in the form of written application records, be available to workers and handlers at the central location. Specific information on all pesticide applications, including location of application, product name, EPA registration number, active ingredients, time and date of application, and restricted entry intervals (REI) for each pesticide applied within the past thirty (30) days, must be provided for both general and restricted use products. Further, NYS Article 33-1205.5 of the Environmental Conservation Law (ECL) and 6 NYCRR Part 325.25(d) requires that private applicator records contain the restricted pesticides purchased, target crop, method of application and date of application.

Information required by 40 CFR 170.122 was compiled but difficult to determine from the written information at the Central Location. A suggested recordkeeping form was provided to you, which should help you keep the records for the tree farm pesticide applications. Records may also be posted on the wall next to the safety poster. In any event, these records must be accessible to workers at the farm at all times, and workers must know where to access this information.

3. 40 CFR 170.130 requires that all workers must receive pesticide safety training using United States Environmental Protection Agency approved training materials. This training should also be documented.

It appeared that workers and handlers had been trained in the past, but you were unable to show documentation that any worker/handler training took place (as called "assurance" in the regulations). This training must be completed at least once every five years. Approved worker/handler training booklets and suggested training acknowledgment forms were left with you. You stated that you would complete training with the approved EPA materials for both workers and handlers.

4. 40 CFR 170.120(c) requires either verbal notification or posting of the treated areas, depending upon the label requirements.

Treated tree & shrub rows were marked with signs, although they were not the EPA approved format signs. You indicated you would begin using the official sign format in the future.

Mr. Edward Dore (NOV)
September 17, 2012
Page 3

5. 40 CFR 170.112/150/250 requires that decontamination sites containing soap, single use towels, and enough water for washing and emergency eye flushing. These items must be within ¼ mile of the work site.

These items were available at the farm.

6. 40 CFR 170.112/240 requires that personal protective equipment as required by pesticide product labeling, must be provided to pesticide handlers and early entry workers.

These items were available at the farm.

Also, Title 6 New York Code of Rules and Regulations (NYCRR) Part 325.2 (c) requires all equipment containing pesticides and drawing water from any water source shall have an effective anti-siphon device to prevent back flow. No anti-siphon or fixed pipe air gap devices were observed at your water source well at the farm. We discussed several methods to comply, including utilizing an air gap or adding an actual device. In order to verify compliance without a re-inspection, please forward a photograph of the new backflow prevention system along with the attached "Compliance Verification Affidavit" as soon as completed.

Lastly, this office has received a copy of the example lawn tree and shrub contract submitted for review. Article 33 of the ECL, Title 10, §33.100(1) states: ***"Prior to any commercial lawn application the applicator shall enter into a written contract with the owner of the property or his agent specifying the approximate date or dates of application, number of applications, and total cost for the service to be provided and shall supply the property owner or his agent with a written copy in at least 12 point type of:***

- a. ***A list of substances to be applied including brand names and generic names of active ingredients;***
- b. ***Any warnings that appear on the label of the pesticides to be applied that are pertinent to the protection of humans, animals, or the environment (Note: recent regulatory changes now allow this label information to be provided in an electronic format if acceptable to the recipient); and***
- c. ***The company name, address, telephone number, business registration number and applicator certification identification card number."***

Additional requirements are listed in Title 6 NYCRR Part 325.40(a).

Mr. Edward Dore (NOV)
September 17, 2012
Page 4

The sample contract appears to meet the requirements of the regulations, except that it does not contain "*Any warnings that appear on the label of the pesticides to be applied that are pertinent to the protection of humans, animals, or the environment*". You are also required to give customers a copy of the pesticide product label prior to the actual application (Article 33-0905.5a). If you give a copy of the label to the customer with the contract, you would be in compliance. However, you must insure that the warning information on the label meets the "12 point type" criteria.

All the above listed violations must be corrected immediately.

As you recall, on July 9, 2012, the Department issued an Order on Consent agreement for several violations of the ECL observed during an inspection of "Dore Landscape Associates, Inc. on June 19, 2012. Upon correction of the anti-siphon device violation, and return of the "Compliance Verification Affidavit" for that issue, the Department can suspend a portion of the payable penalty assessed in the prior Order. A revised Order on Consent will be issued at that time.

Thank you for your cooperation during the inspection process and in promptly addressing these issues. Should you have any questions, or wish to discuss this matter further, please contact me at (716) 851-7220.

Sincerely,



Glenn Reinhardt
Pesticide Control Specialist II

GR:dcg

Enclosure

cc: Mr. Mark Hans, P.E., Regional Materials Management Engineer
Ms. Maureen Brady, Regional Attorney
Mr. Gregory Davis, Pesticide Control Specialist I

Mr. Edward Dore (NOV)
September 17, 2012
Page 5

COMPLIANCE VERIFICATION AFFIDAVIT

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of:

Mr. Edward Dore
Edward Dore Landscape Assoc., Inc.
5911 Fisk Rd.
Lockport, NY 14094

I, Edward Dore, being duly sworn, did depose and say that I am the owner of "Akron Tree Farms of NYS, LLC", and I have corrected the violations and complied with the requirements of the Notice of Violation issued by the New York State Department of Environmental Conservation dated September 14, 2012. I have added an anti-siphon device to my water source at the farm to comply with the requirements of Title 6 New York Code of Rules and Regulations (NYCRR) Part 325.2 (c)

Signature of Officer or Representative

Title of Officer or Representative

Subscribed and sworn to before me
On this ____ day of ____, 2012

Notary Public

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of Violations of Articles 15 and 33 of
the Environmental Conservation Law (ECL) and
Title 6 of the Official Compilation of Codes, Rules, and
Regulations of the State of New York (6NYCRR)
Parts 320 - 329

ORDER ON CONSENT
CASE NO. 89-20130130-10

- BY -

Mr. Edward Dore
Edward Dore Landscape Assoc., Inc.
5911 Fisk Road
Lockport, NY 14094

1. The New York State Department of Environmental Conservation ("Department") is responsible for administration and enforcement of laws and regulations pertaining to pesticides in the State of New York, including ECL Articles 15 and 33 and Title 6 NYCRR Parts 320 - 329.
2. Respondent, Edward Dore Landscape Assoc., Inc., is a registered pesticide application business with a main office located in the City of Lockport, County of Niagara, State of New York, assigned identification number 09999, and subject to the requirements of Articles 15 and 33 of the ECL and Title 6 NYCRR Parts 320 - 329.
3. Pursuant to Article 33 of the ECL and the rules and regulations promulgated there under, Article 33 of the ECL, Title 10, §33.1001(1) states: Prior to any commercial lawn application the applicator shall enter into a written contract with the owner of the property or his agent specifying the approximate date or dates of application, number of applications, and total cost for the service to be provided and shall supply the property owner or his agent with a written copy in at least 12 point type of:
 - a. a list of substances to be applied including brand names and generic names of active ingredients;
 - b. Any warnings that appear on the label of the pesticides to be applied that are pertinent to the protection of humans, animals, or the environment (note: recent regulatory changes now allow this label information to be provided in an electronic format if acceptable to the recipient) and,
 - c. The company name, address, telephone number, business registration number and applicator certification identification card number.
4. The Department has determined that the Respondent violated the statutes and/or rules

indicated above in that the Respondent failed to enter into the required contracts with customers, as the Respondent was unable to show any copies of contracts during an inspection completed by the Department on June 19, 2012.

5. Pursuant to Article 33 of the ECL and the rules and regulations promulgated there under, Title 6 NYCRR Part 325.2(b) states: "Pesticides are to be used only in accordance with label and labeling directions or as modified or expanded and approved by the Department".
6. The Department has determined that the Respondent violated the statutes and/or rules indicated above in that the Respondent failed to apply the pesticide product "Lontrel Turf and Ornamental" herbicide, EPA Registration Number 62719-305 according to label directions on June 9, 2012 to property at 109 Greenaway Road, Buffalo, NY 14226. Respondent's daily pesticide application records, viewed during an inspection on June 19, 2012, indicated this product was applied at a dosage rate of 0.5 ounce per 1000 square feet. However, label directions for the product indicate that an application rate of 0.25 ounces per 1000 square feet should be applied. Further, the label directions under "Specific Use Directions" state: "Do not use on residential lawns". 109 Greenaway Road, Buffalo, NY 14226 is a residential property. The Respondent is applying this product approximately two times higher than allowable label rates at a site prohibited by label directions.
7. Pursuant to Article 33 of the ECL and the rules and regulations promulgated there under, Title 6 New York Code of Rules and Regulations (NYCRR) Part 325.2 (c) requires all equipment containing pesticides and drawing water from any water source shall have an effective anti-siphon device to prevent back flow. No anti-siphon or fixed pipe air gap devices were observed at your water source well at the farm. We discussed several methods to comply, including utilizing an air gap or adding an actual device.
8. The Department has determined that the Respondent violated the statutes and/or rules indicated above in that the Respondent failed to have in place an anti-siphon device at the Akron Tree Farms of NYS, LLC facility at 263 Knapp Rd., Akron during an inspection at this facility on September 6, 2012.
9. To promote the best interest of the parties, the Respondent affirmatively waives the right to a hearing on this matter as provided by law and consents to the issuing and entering of this Order and agrees to be bound by the provisions, terms and conditions contained herein.

NOW, having considered this matter and being duly advised, IT IS ORDERED THAT:

I. Resolution of Enforcement Action. Upon completion of all obligations created in this Order, this Order settles only all claims for civil and administrative penalties concerning the violations described in this Order against Respondents and related permit requirements.

II. Civil Penalty. With respect to the violations identified in this Order, Respondent is hereby assessed a civil penalty in the amount of \$750.00 (seven hundred fifty dollars) for the

above violation of the ECL. The payable penalty amount is due by January 25, 2013. All payments shall be made by check or money order, payable to the Commissioner of Environmental Conservation at the New York State Department of Environmental Conservation, Bureau of Pesticide Management, 270 Michigan Avenue, Buffalo, New York 14203. Payment shall be made by the Respondent, delivered personally or by US mail to the address set forth in this paragraph as stipulated with the payment due immediately upon execution of this Order but no later than January 25, 2013.

III. Compliance. That Respondents shall be immediately bound as here and after provided by this Order. In addition, Respondent must correct said violations to the satisfaction of the Department. Respondent agrees that a re-inspection of the Akron Tree Farms of NYS, LLC facility at 263 Knapp Rd., Akron can be completed during 2013 to determine if an effective "anti-siphon" device has been installed.

IV. Access. For the purpose of monitoring or determining compliance with this Order, employees and agents of the Department shall be provided access to any facility, site or records owned, operated, controlled or maintained by Respondents, in order to inspect and/or perform such tests as the Department may deem appropriate, to copy such records, or to perform any other lawful duty or responsibility.

V. Reservation of Rights. Except as provided in this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the civil, administrative, or criminal rights of the Department or of the Commissioner of her designee (including, but not limited to, nor exemplified by, the rights to recover natural resources damages and to exercise any summary abatement powers) or authorities with respect to any party, including Respondent.

VI. Failure, Default, and Violation of Order. Respondent's failure to comply fully and in timely fashion with any provision, term, or condition of this Order shall constitute a default and a failure to perform an obligation under this Order and under the ECL and shall constitute sufficient grounds for revocation of any permit, license, certification, or approval issued to Respondent by the Department.

VII. Indemnification. Respondents shall indemnify and hold harmless the Department, the State of New York, and their representatives and employees for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by Respondent and its successors (including successors in title) and assigns.

VIII. Force Majeure. If Respondent can not comply with a deadline or requirement of this Order, because of an act of God, war, strike, riot, catastrophe or other condition which is not caused by the negligence or misconduct of Respondents and which could not have been avoided by Respondents through the exercise of due care, Respondents shall make its best effort to comply nonetheless and shall, within seventy-two hours (unless notice is required sooner by State or Federal law), notify the Department by telephone and in writing, pursuant to the communications provision of this Order, after it obtains knowledge of any such condition or event and request an appropriate extension or modification of this Order.

IX. Submissions. The Respondent shall send all documentation required by this Order to the Department at the following address, unless otherwise noted:

New York State Department of Environmental Conservation
Region 9 Office
Bureau of Pesticides Management
270 Michigan Avenue
Buffalo, New York 14203-2999
Attn: Glenn Reinhardt

X. Binding Effect. The provisions of this Order shall inure to the benefit of and be binding upon the Department and Respondent and its successors (including successors in title) and assigns.

XI. Modification. If, for any reason, Respondent desires that any term of this Order be changed, Respondent shall make timely written application therefore to the Regional Director of the Department's Region 9 Office setting forth reasonable grounds for the relief sought. The Department of Environmental Conservation agrees not to unreasonably deny a request for extension of time and modification of this Order. No change in this Order shall be made or become effective except as set forth by a written order of the Commissioner or the Commissioner's designee.

XII. Entire Order. The provisions of this Order constitute the complete and entire Order issued to the Respondents concerning resolution of the violations identified in this Order. No term, condition, understanding or agreement purporting to modify or vary any term hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal oral or written advice, guidance, suggestion or comment by the Department regarding any report, proposal, plan, specification, schedule comment or statement made or submitted by Respondent shall be construed as relieving the Respondent of its obligations to obtain such formal approvals as may be required by this Order.

XIII. Effective Date. The effective date of this Order is the date that the Commissioner or his designee signs it. The Department will provide Respondents (or the Respondents counsel) with a fully executed copy of this Order as soon as practicable after the Commissioner or her designee signs it.

DATED: Buffalo, New York
Feb. 11, 2013

Joseph J. Martens, Commissioner,
New York State Department of
Environmental Conservation

By: Abby M. Snyder
Abby M. Snyder
Regional Director, Region 9

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CONSENT BY CORPORATION

Respondent, Mr. Edward Dore, representing Edward Dore Landscape Assoc., Inc., hereby consents to the issuing and entering of the foregoing Order without further notice and waives the right to a hearing herein and agrees to be bound by the provisions, terms and conditions herein.

Respondent Edward Dore

Title President

Date: 1/23/13

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ACKNOWLEDGMENT FOR CORPORATION RESPONDENT

STATE OF NEW YORK
COUNTY OF Niagara

On the 23rd day of January in the year 2013, before me personally came Edward Dore, to me known, who being by me duly sworn did dispose and say that (s)he resides in Niagara County, that (s)he is the President of Respondent, the entity described in and which executed the above instrument, and that (s)he signed his (her) name thereto by Order as authorized by said corporation.

Ruth A. Stegner
Notary Public

RUTH A. STEGNER
Notary Public, State of New York
Qualified in Niagara County
Commission Expires March 2, 2014

RECEIVED
NYSDEC - REGION

JAN 28 2014

FOR
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